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# LEWIS' MARINE MANUAL,

BEING

A SUMMARY OF THE LAW RELATING TO OR IN ANY WAY CONNECTED  
WITH THE SHIPPING AND MERCANTILE INTERESTS OF THE  
INLAND AND SEA-COAST WATERS OF CANADA AND  
THE UNITED STATES,

BY

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THE LAW OF INLAND SHIPPING—LEWIS' ONTARIO STATUTE INDEX—  
LEWIS' MAGISTRATES' MANUAL AND INDEX OF CRIMINAL  
LAW (TWO EDITIONS).

ARTICLE ON INLAND LLOYDS CLASSIFICATION AND SHIP-BUILDING RULES BY

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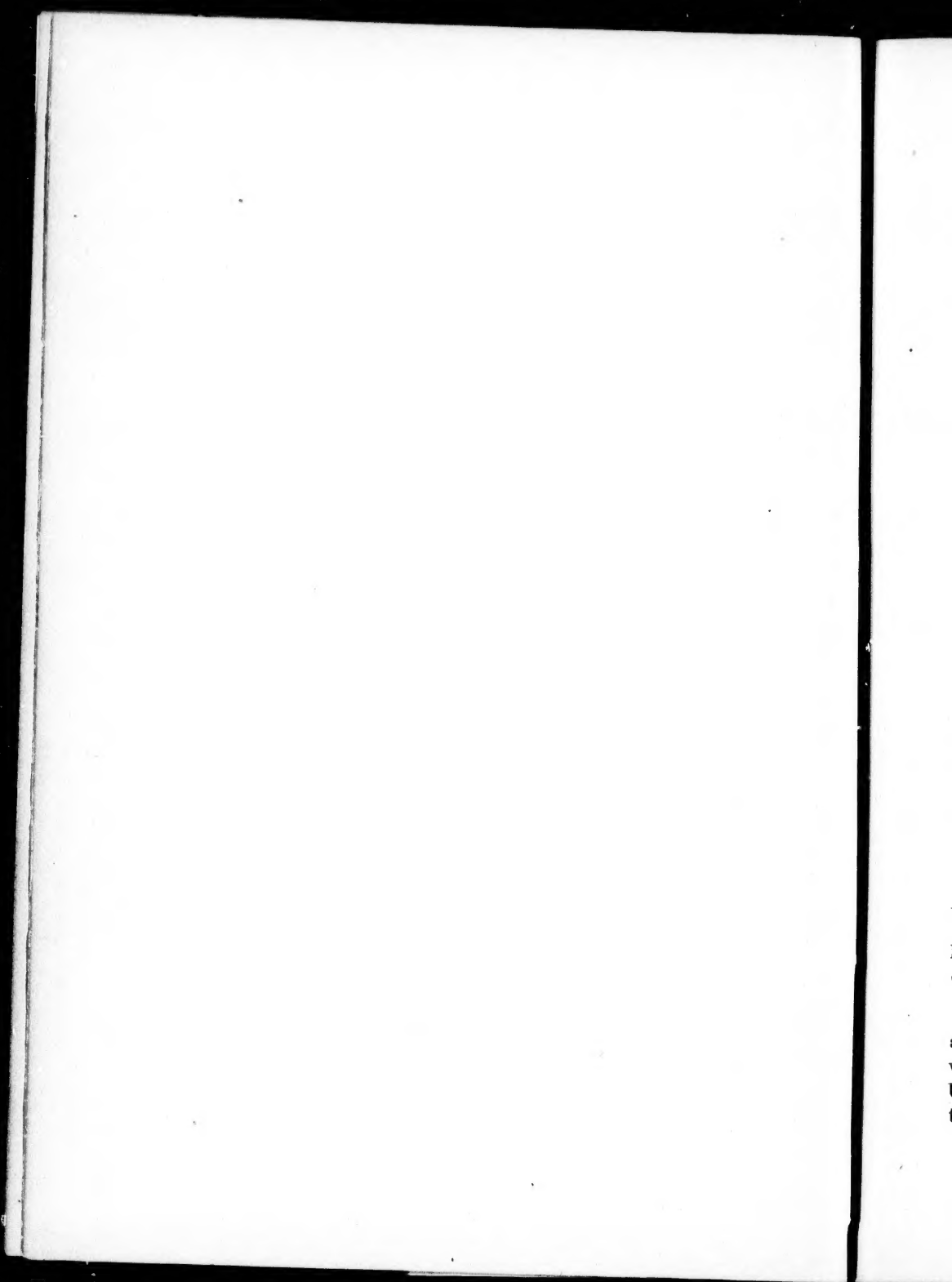
1885.



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TO  
WILLIAM SMITH, ESQUIRE,  
DEPUTY-MINISTER OF MARINE FOR CANADA,

This work is,  
WITH HIS PERMISSION,  
RESPECTFULLY DEDICATED.



## PREFACE.

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In the daily experience of merchants, mariners and all persons in any way connected with shipping or transportation by water, points constantly arise, to elucidate which the assistance of some convenient authority, where satisfactory information can be obtained, is much needed. This book is designed to meet as far as possible, in one of its size, this want.

So far as I am aware, this is the first work of the kind published on this side of the Atlantic, and heretofore merchants have had to rely mainly on their own experience, in the absence of any convenient book of reference regarding, their rights and liabilities in respect of freight and cargo. Master mariners have been without a ready guide in the many important duties belonging to their office; seamen have had no convenient means of learning what could and what could not be expected of them, how they were to collect their wages, and what actions on their parts lost them their wages; and, most important of all, ship-owners, who are frequently merchants engaged in other callings, have had to depend to a great extent on masters, agents and others, for advice concerning their vessel property.

I have consulted carefully most of the standard works on shipping, including MacLachlan on Shipping, Kay on Masters and Seamen, Abbott on Shipping, Holt's Rule of the Road, Foard's Merchant Shipping, Smith's Mercantile Law, and others, as well as the reports, and have endeavoured to carefully compile from them, all points bearing on Maritime interests.

I have spared no pains so to arrange these as to make them plain and easy of reference, and to make the book a practical and useful work, and one of benefit to the extensive commercial interests of the United States and Canada. Should it prove to be so, the object of the compiler will have been attained.

I am much indebted for invaluable assistance in my work, to William Smith, Esquire, Deputy-Minister of Marine for Canada, to whose deep interest and watchful care, the great prosperity of Canada's Merchant Marine is largely due ; also, to Charles Seager, Esquire, of Osgoode Hall, Barrister-at-Law, who kindly perused the work previous to its going to press.

E. N. L.

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# LEWIS' MARINE MANUAL.

## CHAPTER I.

### FREIGHTING.

PART I—CHARTERS.

PART II—BILLS OF LADING.

PART III—DUTIES OF SHIP-OWNERS, MERCHANTS, MASTERS, &c.  
DUTIES OF FORWARDERS, WAREHOUSEMEN, &c.

PART IV—NON PERFORMANCE OF CHARTERS, DISSOLUTION OF  
CHARTERS, EMBARGO.

PART V—FREIGHT, HOW CALCULATED, BY WHOM PAYABLE, TO  
WHOM PAYABLE, LIEN FOR, PAYMENT OF.

#### PART I.—CHARTERS.

A Charter-party, (or as it is generally called *charter*), is a contract in writing under which a ship or some part thereof is hired by the charterer during a certain term, or for a certain voyage, in consideration of a certain sum of money.

Such sum may be paid by the ton, by the month, or both, or for the whole time or voyage mentioned.

Under a charter-party a ship may be chartered fully rigged and ready for sea, but the charterer is to have full charge, and man and sail her himself, or he may merely contract with the owner of the ship to have his goods carried by a certain ship, or he may charter a ship fully equipped and manned to make a certain voyage for him, or to work a certain time for him.

In the first of above cases the charterer becomes for the time the owner of the vessel, the master and crew being under his control and being his employees, and through them the possession of the ship is in him. (1)

In the second of above cases the possession and control of the

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CASES NOTED AT END OF EACH PART.



vessel remains in the original owner and the master and crew are under his control. (1)

In the third case the ownership and possession are in the same hands as in the second case. (1)

It is frequently important to know to which of above classes a certain charter belongs, as the liability of the parties as owners or otherwise, depends on same, and also the right of the real owners of the ship to detain the cargo until the freight is paid.

It is necessary to read the whole of the charter, and the intention of the parties thereby expressed is to govern. (1)

In the first of above cases the charterer takes the place of the original owner and incurs all the responsibility as such owner. In the second and third cases the original owners have the right to detain the cargo until the freight is paid, and the charterers have the right to sue such owners for delay or non-delivery of cargo or for damage to same. (1)

Representations made in a charter should be substantially true, although in some unimportant matters they may not void the contract.

For instance, where a ship is described in the charter as being in a certain port on a certain day, the charterer is not bound to load her if she is not there on time although prevented by contrary winds. (2)

The same rule holds where it was stated in the charter that the ship would sail on a certain day and she did not sail for some days thereafter. (3)

Under the words in an ordinary charter "*being tight, staunch and strong, and every way fitted for the voyage*," the ship must sail in a seaworthy condition, and if she afterwards becomes unseaworthy during the voyage and there be opportunity to repair, the owner must repair or not go to sea; otherwise the freighter will be entitled to compensation for any damages occurring by the breach of such an agreement. (5)

Where a vessel has been guaranteed to be a good risk for insurance and to be tight, staunch and strong, and every way fitted

for the voyage, and after being loaded it was found necessary to unload her, as the pumps could not keep her free from water to enable her to proceed to sea with safety, it was held the charterer could refuse to load the cargo again, and could have refused to have loaded in the first place. (6)

Unless otherwise expressly mentioned in the charter, the shipowner is bound to provide a ship tight, staunch and strong, and every way fitted to carry the agreed cargo on the prescribed voyage and the charterer to supply him with a reasonable cargo of the description mentioned in the charter. (7)

The word cargo means a ship load, and an agreement that a ship shall load a full and complete cargo means that the ship shall load and carry a ship load as large as is generally carried by vessels of her size of the cargo in question. (8)

Where the charterer agrees to furnish a full and complete cargo, and when the cargo is partly loaded, the vessel is scuttled on account of fire or otherwise, he is still bound to load the balance of the cargo, if demanded, when the vessel is raised. (9)

It is sufficient for the charterer to have once loaded the ship; for if she reload it for reasons of her own, the charterer has satisfied his contract without reloading it. (10)

Where there is no express agreement as to time in the charter, it is implied that there shall be no unreasonable or unusual delay in commencing the voyage. (11)

Where there is no express agreement on the subject, it is implied in every charter that there shall be no deviation in the voyage. (12)

Under a condition "to sail from" or "depart" from a certain port by a certain day, the ship must be out of port and on her voyage on or before the day mentioned. (13)

A charter should be construed liberally, agreeable to the real intention of the parties and conformable to the usage of trade in general, or of the particular trade to which the contract relates. (14)

If the usage of a particular port respecting the trade in question in a charter is well known generally, although not to one of the

persons contracting, nevertheless the charter will read as containing such usage unless it expressly excepts it. (15)

Generally a charter contains an amount fixed as a penalty for non-performance of any of the conditions, but this amount is not binding and a larger sum can be recovered if the damage amounts to more, and *vice versa* he can only recover the amount of actual damage if the amount be less. (16)

In the case of the *Kaloolah*, the defendants advanced money to the plaintiffs to enable them to place a steamboat between Saginaw and Goderich and agreed also to pay part of each trip's expenses, and they were to appoint and pay a purser who was to live aboard the boat and be under plaintiffs' control. The plaintiffs sued the defendants for moneys received by the purser and not paid over by him.

Held that the purser was under the plaintiffs' control and that they could have dismissed him under their agreement, and that the defendants were not liable for the freight received by him. (17)

When a vessel about to sail is advertised as a general ship, an intending shipper is not bound to inquire as to the existence of any charter-party. (18)

When the owner of a vessel has an opportunity of examining goods shipped on board of her, no warranty can be implied on the part of the owner of the goods that they are fit to be carried on the voyage. (19)

In every contract for the conveyance of merchandise by sea, there is, in the absence of express provision to the contrary, an implied warranty by the ship owner that his vessel is seaworthy. (20)

The intention of the parties as to the law of which country should govern the contract must be gathered from the circumstances of each case. *Prima facie* the law of the country where the contract is made governs. (21)

When a ship owner contracts to carry goods without excepting any risks, he is bound to deliver the goods as agreed. (22)

The owners of ships which are engaged as general traders are

liable as common carriers, equally with those whose vessels only carry goods between certain named ports. (23)

Charters, no matter of what size, should always be in writing and signed by both parties. The following form of a charter can, with slight changes, be used in most cases :

(Place and date.)

It is this day mutually agreed between \_\_\_\_\_ of  
the good ship or vessel called the \_\_\_\_\_ of the measurement  
of \_\_\_\_\_ tons, or thereabouts, now at \_\_\_\_\_ and  
of \_\_\_\_\_  
merchants, that the said ship being tight, staunch and strong, and every way  
fitted for the voyage, shall, with all convenient speed, sail and proceed to  
or so near thereunto as she may safely get,  
and there load from the agents of the said \_\_\_\_\_  
not exceeding what she can reasonably stow and carry, over and above her  
tackle, apparel, provisions and furniture; and being so loaded, shall there-  
with proceed to \_\_\_\_\_ or so near  
thereunto as she may safely get and deliver the same on being paid freight as  
follows:  
(The act of God, the Queen's enemies, fire and all and every other dangers  
and accidents of the seas, rivers and navigation, of whatever nature and kind  
soever, during the said voyage, always excepted.) The freight to be paid on  
unloading and right delivery of the cargo.  
\_\_\_\_\_ running days are to be allowed the said merchant  
(if the ship is not sooner despatched) for loading the said ship at  
\_\_\_\_\_ and  
days on demurrage over and above the said lie-days at \$ \_\_\_\_\_ per day.

The words "a cargo" mean a full ship load. ,

Where a merchant agreed to furnish a cargo for a vessel and only provided part of a cargo, the vessel would be entitled to damages for loss of the balance of the freight.

The courts always endeavor to read a charter liberally and find out the real intention of the parties.

Unless otherwise expressed, the custom of trade in general, or of the particular trade or ports to which the contract relates, are always applied thereto.

Contracts to charter are generally made with the master of a ship, and in such cases both he and the owners are severally bound for the performance thereof.

#### NOTES.

(1) Dean v. Hogg, 10 Bing 345; Christie v. Lewis, 2 B. & B. 410; Belcher v. Capper, 4 M. & Gr. 502, 541; Parrish v. Crawford in 4th Ed. Abbott on Shipping, P. 22; Hutton v. Bragg, 7 Taunt 14; Newberry v. Colvin, 7 Bing.

190; *Newberry v. Colvin*, 8 B. & C. 166; *Reeve v. Davis*, 1 A. & E. 312; *Gilkison v. Middleton*, 26 L. J. (C. P.) 209, as to where the shipper thinks he is contracting with original owner, not knowing of charter. See also *Peck v. Larsen*, L. R. 12, Eq. 378.

(2) *Corkling v. Massey*, L. R. 8, C. P. 395; *Behn v. Burness*, 32 L. J. (Q. B.) 204.

(3) *Ollive v. Booker*, 1 Exch. 416; *Dinech v. Corlett*, 12 Moore, P. C. 199.

(4) *Schlöss v. Heriot*, 32 L. J. (C. P.) 211.

(5) *Worms v. Storey*, 25 L. J. (Ex.) 1; 11 Exch. 427; 34 & 35 Viet., C. 10, S. 11.

(6) *Stanton v. Richardson*, *Richardson v. Stanton*, L. R. 7, C. P. 421; *Havelock v. Geddes*, 10 East 555.

(7) *Stanton v. Richardson*, L. R., 7 C. P., 421, per Bovile, C. J.

(8) *Ritchie v. Atkinson*, 10 East 295; *Carr v. Wallachain Petroleum Co.*, L. R. 1, C. P. 636.

(9) *Jones v. Holm*, L. R. 2, Ex. 335.

(10) *General Steam Navigation Co. v. Slipper*, 31 L. J. (C. P.) 185; *Strugnell v. Friedrichsen*, 12 C. B. N. S. 452.

(11) *Per Tindall C. J.*, *McAndrew v. Adams*, 1 Bing, N. C. 29 38; *Mount v. Larkins*, 8 Bing. 108.

(12) *Davis v. Garrett*, 6 Bing. 716; *Freeman v. Taylor*, 8 Bing. 124.

(13) *Moir v. Royal Exchange Assurance Co.*, 4 Comp 84; 3 M. & Sel., 461 S. C.; *Pettegrew v. Pringle*, 3 B. & Ad. 514; *Lang v. Anderlon*, 3 B. & C. 495; *Graham v. Burns*, 5 B. & Ad. 1011.

(14) *Humphrey v. Dale*, 26 L. J. (Q. B.) 137, 140; *Yates v. Duff*, 5 C. and P. 369; *Jolly v. Young*, 1 Esp. 186; *Leideman v. Schultz*, 14 C. B. 38; *Robertson v. Jackson*, 2 C. B. 412; *Taylor v. Briggs*, 2 C. and P. 525; *Bottomley v. Forbes*, 5 Bing., N. C. 121; *Benson v. Schneider*, 1 Moore 21; *Cuthbert v. Cumming*, 11 Exch. 405.

(15) *Hudson v. Ede*, L. R. 2, Q. B. 566; *Hall v. Janson*, 4 E. & B. 504; *Phillips v. Briard*, 1 H. & N. 21; *Blackett v. Royal Exchange Assurance Co.*, 2 Cr. and J. 244; *Fleet v. Murton*, L. R. 7, Q. B. 126; *Hutchinson v. Tatham*, L. R. 8, C. P. 482; *Garbner v. McCutcheon*, 4 Beav 534.

(16) *Harrison v. Wright*, 13 East 313.

(17) *VanEvery & Rumball vs. the Buffalo and Lake Huron R. W. Co.*, 20 Q. B. 630.

(18) *Peck v. Larsen*, 12 L. R., Eq. 373; 19 L. J., Ch. 763; 25 L. T. 580; 19 W. R., 1045—R.

(19) *Acetos v. Burns*, 3 Ex. D. 282; 47 L. T., Ex. 566; 26 W. R., 624—C. A.

(20) *Kopitoff v. Willson*, 1 Q. B. D. 377; 45 L. J. Q. B. 436; 24 W. R., 706.

(21) *The Wilhelm Schmidt*, 25 L. T., 34 Adm.

(22) *Stevenson et. al. v. Gildersleeve*, 2 C. P. 495; *Crafford v. Browne et. al.* 11 Q. B. 96; *Warren v. Wilson*, 60 S. 435.

(23) *Hearle v. Ross et. al.*, 15 Q. B. 259; *Waddell v. McBride et. al.*, 7 C. P. 382.

## PART II.

## BILLS OF LADING.

When a vessel is advertised as a general ship for a particular voyage, she is intended for a miscellaneous cargo composed of the goods of any person that chooses to ship, and the freight contract actually made is usually with the master, but both he and his owners are separately bound to the performance of it.

The seaworthiness of the ship is always implied in every contract of above nature and damages can be recovered for injuries sustained on account of her not being so. (24)

The owner of a general ship is *prima facie* a common carrier for hire, and for loss or damage of goods carried by him he is liable in the nature of an insurer, unless such liability is modified by the contents of the Bill of Lading. (25)

Bills of Lading are to be signed by the master of the ship, whether the contract is by charter in writing or otherwise. (27)

The usual custom is for the master, mate or clerk, or persons checking the goods as they are sent aboard, to give a receipt for same, and the master, on such receipts being given up to him, signs the Bills of Lading.

Bills of Lading are generally made up in three parts exactly alike, all three of which are to be signed by the master. One part is kept by the master; one part is sent by post to the consignee of the goods, and the third is kept by the shipper of the goods. 26

In some cases a fourth part of the Bill of Lading may be required for the ship owners, and there is no reason why same should not be given. (26)

The master is the person to sign the Bills of Lading, and is bound to sign for goods he has received or he must put the goods ashore without expense to the shipper; but the owners of the ship are not

bound by Bills of Lading signed by the master for goods he has never received, even to a holder for valuable consideration without notice. The master, however, is himself responsible to such latter holder. (27)

A Bill of Lading is an acknowledgment of the receipt of goods mentioned therein, and is also evidence of a contract to carry the same safely and deliver them at the port of destination mentioned, to the person or his assigns upon the terms mentioned therein. (28)

Where there is a dispute about the quantity or condition of the goods, or if the contents of barrels or packages are unknown, the wording of the Bills of Lading should be varied to correspond before they are signed. (29)

Where anything is delivered to a person to be carried, it is the duty of the person receiving it to ask such questions as may be necessary. If he does not and there is no fraud to make the thing appear different from what it really is, he is bound to carry it as it is. (29)

In the case of goods put aboard a ship without the knowledge or consent of the master or owners, the master upon delivery of them will be entitled to the usual freight for the voyage.

Masters should be very careful not to sign Bills of Lading when the goods mentioned therein have not been received on board, as, although they would not be liable for same to the owner of the goods, still as by the custom of merchants, a Bill of Lading when indorsed and delivered to a *bona fide* indorsee for value passes the property in the goods mentioned in it, and such indorsee thereby acquires an insurable interest therein and may sell the goods by means of said Bill of Lading, or pledge same as a security for advances. (30)

Upon refusal to deliver the goods to him on their arrival, he may sue the owners or master for them. (31)

The contract is transferred with the property by indorsement and delivery of a Bill of Lading. (32)

Where there is manifestly no intention to transfer, but only to give an authority to stop the goods *in transitu* to a mere agent in

possession of an indorsed Bill of Lading, such agent has no right of action to recover damages for breach of contract or for the property. (33)

A Bill of Lading is not like a bill of exchange or promissory note, a negotiable instrument which passes by mere delivery to a *bona fide* holder for valuable consideration, without regard to the title of the parties who make the transfer.

Although the shipper may have indorsed in blank a bill of lading deliverable to his assigns, a subsequent *bona fide* holder for value cannot hold it as against the shipper if it be stolen from him or transferred without his authority. (34)

The *onus of proof* lies on the person claiming an adverse right to the shipper of the property in the bill of lading.

The liability of indorsers on bills of lading ceases as soon as they have properly indorsed and transferred the same to a *bona fide* holder for value, and it is only the last holder on receipt of the goods that may sue or be sued. (35)

The words "*or order*," "*or assigns*," must be used to transfer a legal title to the goods by the bill of lading. (36)

There can be no complete delivery of goods until they are placed under the dominion and control of the person who is to receive them. (37)

The master should see in each case that it is expressly set out in the bill of lading how and to whom the cargo is to be delivered, and he should take great care to follow all the stipulations in the bill.

Even when the consignee sends his own vessel or one chartered by him for the goods and they are delivered on board, the master is still bound to deliver them according to the bill of lading. (38)

If the goods are stated in the bill of lading to be shipped on board a steamship, it is part of the contract that the principal motive power is steam, and the mere using steam as an aid to sails will not answer. (39)

Although certain perils are excepted in the bill of lading, it is still the duty of the master and crew to do all they can to guard



against such perils by all reasonable skill and care, and where damage occurs through such perils but on account of the negligence or fault of the master or owners, the owners are liable. (40)

By 31 and 32 Vic. C. 119, S. 14, it is enacted that "Where a company by through booking contracts to carry any animals, luggage or goods from place to place, partly by railway and partly by sea, or partly by canal and partly by sea, a condition exempting the company from liability for any loss or damage which may arise during the carriage of such animals, luggage, or goods by sea from the act of God, the Queen's enemies, fire, accidents from machinery, boilers and steam, and all and every other dangers and accidents of the seas, rivers and navigation, of whatever nature and kind soever, shall, if published in a conspicuous manner in the office where such through booking is effected, and if printed in a legible manner on the receipt or freight note which the company gives for such animals, luggage or goods, be valid as part of the contract between the consignor of such animals, luggage or goods and the company in the same manner as if the company had signed and delivered to the consignor a bill of lading containing such condition.

"For the purposes of this section the word "company" includes the owners, lessees or managers of any canal or other inland navigation."

Where a bill of lading states that the deck load was to be at the risk of the owners, it was held that the risk was to be that of the owners of the goods, not the owner of the vessel. (41)

Section 3, chapter 19 of 33 Vict. O., which makes a bill of lading conclusive evidence of the shipment of the goods as represented therein does not apply to cases between masters of vessels and owners of goods, but only to those between masters and consignees or endorsees of bills of lading for value. (42)

The Bill of Lading Act, 33 Vic., chap. 19, does not apparently create any estoppel as to the condition in which goods are when shipped. (43)

When a bill of exchange was sent to a certain bank for collection and remittance, and a bill of lading for 10,000 bushels of wheat was

sent with same, held that the bank acted properly in giving up the bill of lading to the consignees, they being the drawees of the bill of exchange and having accepted same. Special instructions to retain the bill of lading until the bill of exchange was paid, should have been sent if such was desired. (44)

The following form, with slight changes to suit each particular case, will answer for most Bills of Lading :

Shipped in good order and well conditioned by  
in and upon the good ship (steamer or schooner as case  
may be) called the \_\_\_\_\_ of the port of \_\_\_\_\_  
whereof \_\_\_\_\_ is master for this present voyage  
and now at \_\_\_\_\_ and bound for \_\_\_\_\_  
being marked and numbered as in  
the margin, and are to be delivered in the like good order and well conditioned  
at the aforesaid port of \_\_\_\_\_ (the act of God,  
the Queen's enemies, fire and all and every other dangers and accidents of the  
seas, rivers and navigation of whatever nature and kind soever excepted)  
unto \_\_\_\_\_ or to \_\_\_\_\_  
assigns \_\_\_\_\_ freight for the said goods  
to be paid at the rate of \_\_\_\_\_  
days to be allowed for unloading said goods and \$ \_\_\_\_\_ per  
day demurrage to be paid for each day's delay for which the ship is not re-  
sponsible.

In witness whereof the master or purser of the said ship hath affirmed to  
three Bills of Lading all of this tenor and date, the one of which three bills  
being accomplished, the other two to stand void.

Dated at \_\_\_\_\_

#### NOTES.

(24) *Blythe v. Smith*, 5 M. and Gr. 405.

(25) *Coggs v. Bernard*, 2 Ld. Raym. 909, 918; *Dale v. Hall*, 1 Wils. 281;  
*Laveroin v. Drury*, 8 Exch. 166; *Gillespy v. Thompson*, 2 Jur. N. S. 712 N.;  
*Bennett v. P. & O. Steamboat Co.*, 6 C. B. 775; *Abb. Ship*, 256; *Dale v.*  
*Hall*, 1 Wils. 281.

(26) *Lickbarrow v. Mason*, 2 T. R. 63, 72.

(27) *Peck v. Larsen*, L. R. 12, Eq. 378; *Folk v. Fletcher*, 34 L. J. (C. P.)  
146; *McLean v. Fleming*, L. R. 2 Ho. of Lords (Se) 128; *Grant v. Norway*,  
10 C. B. 665; *Bryans v. Nix*, 4 M. and W. 775; *British Columbia Mill Co. v.*  
*Nettleship*, L. R. 3 C. P. 499; *Craven v. Ryder*, 6 Taunt. 433; *Fragano v.*  
*Long*, 4 B. and C. 219; *Thompson v. Traill*, 2 C. and P. 334; *Schuster v.*  
*McKellar*, 7 E. and B. 704; *Comasjee v. Thompson*, 5 Moore P. C. 165.

(28) *Russian Steam Navigation Co. v. Silva*, 13 C. B. N. S. 610; *Brown v.*  
*Byrne*, 3 E. and B. 703; *Falkner v. Earle*, 32 L. J. (Q. B.) 124; *The Norway*,  
3 Moore P. C. N. S. 246; *Caldwell v. Ball*, 1 T. R. 205, 216; *Foster v. Colby*,  
28 L. J. (Ex.) 81.85.

(29) *Haddow v. Parry*, 3 Taunt 303; 2 Arnould, Ins. 1060; *Lebean v.*  
*General Steam Navigation Co.*, L. R. 8, C. P. 88; *Walker v. Jackson*, 10 M.  
and W. 161, 169; C. J. L. R. 8, C. P. 97.

(30) *Lickbarrow v. Mason*, H. of Lds., 6 East. 19, 23 N.; *Haille v. Smith*,  
1 B. and P. 564; *Cumming v. Brown*, 1 Camp. 103, 9 East 506 S. C.; *Haddow*

v. Parry, 3 Taunt 303; Hibbert v. Carter, 1 T. R. 745; Meyerstein v. Barber, L. R. 2 C. P. 38, 661.

(31) Folk v. Fletcher, 34 L. T. (C. P.) 146; Haille v. Smith, 1 B. and P. 564.

(32) Foster v. Colby, 28 L. T. (Ex.) 81.88.

(33) Waring v. Cox, 1 Camp. 369; Coe v. Harden, 4 East 211, 217; Moores v. Hopper, 2 N. R. 411; Morrison v. Gray, 2 Bing. 260; Anderson v. Clarke, 2 Bing. 20.

(34) Gilbert v. Gingnon, L. R. 8, Ch. 16; Gurney v. Behrand, 23 L. J. (Q. B.) 265, 271, 3 E. and B. 622; Schaster v. McKellar, 26 L. J. (Q. B.) 281.

(35) Smurthwaite v. Wilkins, 31 L. J. (C. P.) 214; Short v. Simpson, L. R. 1 C. P. 248; The Freedom, L. R. 3 P. C. 594.

(36) Henderson v. Comptoir d'Escompte de Paris, L. R. 5, P. C. 253, 261.

(37) Meyerstein v. Barber, L. R. 2 C. P. 50.

(38) Pinder v. Wilkes, 5 Taunt 612; Sargent v. Morris, 3 B. and Ald. 277, 282; Wait v. Baker, 2 Exch. 1; Ellershaw v. Magniac, 6 Exch. 570; Ogle v. Atkinson, 5 Taunt 795; Key v. Cotesworth, 7 Exch. 595, 22 L. J. (Ex.) 4; Mitchell v. Ede, 11 A. and E. 888; Evans v. Marlett, 1 Ld. Rayner 271; Caldwell v. Ball, 1 T. R. 205.

(39) Fraser v. Telegraph Construction, &c., Co., L. R. 7 Q. B. 566.

(40) Phillips v. Clark, 2 C. B. N. S. 756; Czech v. General, &c., L. R. 3, C. P. 14; Gill v. Mauch, R. Co. L. R. 8, Q. B. 196; Kay M. & S. 410.

(41) Merritt v. Ives, et. al., M. T. 4 Vict.

(42) Allen et. al. v. Chisholm, 33 Q. B. 237.

(43) Chapman v. Zealand, 24 C. P. 421.

(44) The Wisconsin Marine and Fire Insurance Co. Bank v. Bank of B. N. A., 21 Q. B. 284, 2 E. and A. 282.

## PART III.—FREIGHTING.

### DUTIES OF SHIP-OWNERS, MERCHANTS, MASTERS, &c.

The first duty of the owners and master is to provide a vessel tight and staunch and strong, provided with all necessary tackle and apparel, and manned with a sufficient crew; in a word, a ship reasonably fit to carry the cargo stipulated for in the charter-party. This duty rests upon a fundamental principle of all law. (1)

It is stipulated for in the usual form of charter-party.

It is an express condition of the ordinary bill of lading.

It is implied at common law in every contract to carry for hire, only not as a condition precedent.

Where a master stipulated in the bill of lading "not to be accountable for leakage or breakage," it was nevertheless held that he was liable for loss by those means through negligence. (2)

The general rule with regard to the duties of the charterer and ship owner is that the one must offer a reasonable cargo of the kind specified in the charter, and the other must provide a ship reasonably fit to carry such cargo. (3)

If the owner or master contracts to be ready at a certain time to receive cargo, this condition includes the seaworthiness of the hull, the state of the hold being proper, and a sufficient number of officers and crew on board to receive the goods and take care of them when received, and this within the time mentioned. (4)

The manner of taking goods on board and the commencement of the master's duty in this respect depend on the custom of the par-

tiacular place or trade unless otherwise expressly stipulated in the charter-party. (5)

More or less is to be done by wharfingers, lightermen, or stevedores, according to the usage.

If the master receives goods on the dock or beach, or sends his boat for them, his responsibility for them commences with such receipt. (6)

As soon as any goods are put on board the master must provide a sufficient number of men to protect them, for even if the crew be overpowered by a superior force and the goods stolen, whilst the ship is in a port or river, the master and owners will be responsible for the loss, although they have been guilty of neither fraud nor fault. (7)

In the case of vessels trading on the lakes, the usual custom where the goods are coarse and able to be handled by the crew, is for the shipper to place them on the rail of the vessel and the ship owner or master to receive them there and remove them to their proper storing place.

There are, however, a great many different customs in different trades. I mention a few here:

Grain cargoes in bulk received from and delivered to elevators, vessels usually pay for trimming the cargo and elevating.

Coal cargoes, usually loaded and unloaded by the shipper.

Lumber cargoes, usually received on the rail by the master and stowed by him and unloaded by the master.

Package freight generally received on the wharf and placed on the wharf by the ship owner and master.

Cedar posts and ties of all kinds are usually received and delivered on the rail by the master.

Notwithstanding the above customs, however, there are so many local customs prevailing at different ports and in different trades, that it is always better for the full bargain to be made at the time of chartering and not leave part to be formed by the prevailing custom.

The words "free in" or "free out" inserted in a charter after the freight rate always mean that the vessel owner or master is to be

relieved from the loading or unloading, and rests on him merely the responsibility of placing his vessel in a fit place in proper condition to be loaded or unloaded as the case may be.

It is in all cases the duty of the master to provide ropes and other tackle proper for taking the goods on board, unless, of course, expressly stipulated otherwise in the charter-party. (8)

Where cargo is accidentally injured in letting it down in the hold of the vessel, the vessel must make good the loss unless the merchant is loading. (9)

The ship must also be furnished with proper dunnage, consisting of strips of wood placed against the sides and bottom of the hold for the purpose of preserving the cargo from the effects of leakage, and where the owners have cargo to ship that will answer for dunnage and occupy no more room than the dunnage would, they may use it instead, although the whole ship be chartered to another. (10)

Sometimes the charterer agrees in the charter-party to provide his own dunnage.

Stowage of the cargo is the duty of the owners and master and they are bound to stow it unless the charter-party expressly states to the contrary or there is a clear usage of the port otherwise. (11)

The master is bound to ventilate the cargo when necessary, and to take all possible care of it during the voyage. (73)

When the master stows the cargo he must take great care to place and arrange the different articles of which it consists so that they be not injured by each other or by leakage or motion of the ship, for the master and owners are liable for all damage from any of the above causes without proof of personal negligence. (12)

It is otherwise where the shipper assents to the way in which his goods are stowed, or when they are stowed by his own stevedores without express orders or interference on the part of the master. (13)

The master is liable to the owners of the ship for damages caused by improper stowage arising from his own misconduct. (14)

Where a merchant charters a vessel and puts her up as a general ship, he is liable for damages caused by bad stowage, the master of

course being responsible to him for misconduct in connection therewith. (15)

More cargo should not be taken on board than the ship can carry, after leaving room for her own furniture, for the provisions and due accommodation of the crew and for the proper working of the vessel.

A charterer who engages a ship to take a full and complete cargo is entitled to have her so stowed as to economise cargo space to the best advantage. Room must of course be left for the accommodation of the crew and provisions, and for the proper working of the vessel.(16)

The manner of carrying any of the cargo must not be such as is prohibited by law, nor should any of the goods be prohibited or contraband of war, rendering the vessel or rest of the cargo liable to seizure, or forfeiture, or detention. (17)

36 and 37 Vic., C. 85, imposes a penalty for carrying or attempting to carry dangerous goods, unless the nature of them is distinctly marked outside the package.

Under the same Act it is the master's duty to passengers, freighters, the crew and others, as well as to himself and his owners, to refuse to receive goods which he may suspect of being dangerous when he has not notice of their exact nature. In such a case he has authority to require the package to be opened in order to ascertain the nature of the contents, and the master is empowered to throw overboard all such goods not distinctly marked and not declared by notice as to their contents (providing the opportunity of sending them ashore again is passed) without incurring any liability for himself or his owners, civil or criminal, in consequence.

The master must sign the bills of lading before sailing; otherwise he may involve his owners in an action for conversion of the goods.(18)

The master must procure and keep on board all papers and documents for the manifestation and protection of the ship and cargo, in accordance with the law of the countries from and to which he is bound, and in accordance with the law of nations in general, and with existing treaty stipulations between particular states.

The following is a list of those he should have on board :

1. The certificate of registry of the vessel.
2. The log.
3. The crew's account book.
4. The articles and agreements with the crew.
5. The Bills of Lading and invoices.
6. Clearance papers.

It is the master's duty not to sail underhanded. The ship must be adequately manned with properly certificated officers and able seamen, to encounter the voyage, and this includes all that skill proper for the open lake or sea navigation, and the pilotage of her on her river and coast voyage.

It is the master's duty towards his owner and towards the shipper to see that his vessel is seaworthy, sufficient to satisfy the condition implied in a voyage policy of insurance *at and from*, whether on goods or ship, and a condition is implied in the contract of the ship owner as a carrier, that should the vessel become unseaworthy during the voyage he must make her seaworthy, if their be opportunity, or he must not proceed further. (19)

The master's last duty is to obtain the necessary clearances or permission to sail from the customs officers or others appointed for that purpose, on payment of all dues, port and other charges imposed on shipping, and thereafter to commence the voyage without delay. (20)

Where the freighter is to be allowed a certain number of lay-days for loading, the master should not leave until the end of them, even if he knows the cargo, or a part of same, cannot be furnished him, and where extra days are to be given for loading on payment of demurrage by the freighter, the master is bound to wait until the end of same, if requested by the freighter so to do.

Of course where he is discharged from above duty by the freighter, or some authorized person, he can leave. (21)

Where time is not mentioned the master must wait a reasonable time for the cargo. (22)

It is the master's duty to notify the merchant when he is ready to



receive cargo, unless he is to receive a cargo from a person to whom he has just delivered one. (23)

The time he was to wait having expired and all things being ready, the master shall commence his voyage without delay, the weather being favorable, but on no account while it is stormy. (24)

Some ancient marine ordinances require a master to consult his mate, pilot and others of the crew as to the weather before leaving port, but under the English flag the master has the entire control, although it is generally advisable for him to consult his officers.

When the master has commenced his voyage his next duty is to proceed to his destination without delay or deviation by the shortest and most direct course usually taken by vessels on the same voyage. The above duty is implied in all freight contracts and marine insurance policies. (25)

The above duty may be modified in the case of a particular voyage by common and established custom or usage, and of course special agreement in the charter can alter same.

A breach of above duty may be justified where the repair of the ship, or the avoidance of pirates, or stress of weather requires it, but in any case the deviation and change of course should be no greater and continue no longer than the requirements of the case demand. Where a master changes from his proper course without being obliged to do so and damage ensues, the master is liable, even if the damage would most likely have occurred without such deviation. (26)

By Marine Insurance Law, where several ports are referred to without name they are to be called at as they come in their geographical order, if named however, in the order mentioned, unless usage has established a different succession, or the objects of the charter-party and the clear intention of the parties justify another course. (27)

Where the port of delivery is to be named afterwards, it is implied by law in the contract with the ship owner that the port to be named for delivery of the cargo shall be such at the time of entry as the ship may enter without compromising her safety.

If a vessel's destined port be at the time under blockade, or the port of an enemy at war with the country of the ship owner, he is

not obliged to go there, and the contract is at an end if no part of it has been performed and the ship owner elects to rescind it. (28)

A departure from the proper course for the purpose of aiding and helping those in distress is legal. (29)

A master who is required by the charter to call at a certain place for orders is bound to do so, and to communicate with the persons named at such port. In the absence of orders for him there he is not required to apply by letter for orders, but may sail to the next port mentioned in the charter-party, after waiting a reasonable time, unless otherwise directed in the charter. (30)

In the case of calling for orders, it would always be advisable for the master to telegraph, if possible, for same to the person from whom he expects to receive same.

If the master continues the voyage after he knows the vessel has become unseaworthy, and without repairing her, although he has opportunity of doing so, this is a breach of his contract, and he and his owners are liable for any loss or injury to the cargo consequent thereon. In such a case the ship owner is bound to repair if he has the opportunity, or, at all events, the vessel is not to sail in an unseaworthy state. (31)

Where the ship is so badly damaged, or in such a position, or is so far removed from a suitable place to repair, or where the repairs would cost more than the value of the result when produced, the master may give up the cargo to the freighter and close the expedition, thus losing the whole of his freight; or where he intends to repair he may retain the cargo for a reasonable time, finish his repairs and proceed to his destination.

If the cargo is perishable or so damaged as to be in danger of perishing, the master should give up the cargo to the charterer or his agent at the port of distress.

Where he cannot communicate with the freighter or his agent, he should sell all cargo on the spot that will perish and otherwise become a loss to the freighter.

Where only a reasonable amount is required to restore the damaged cargo to a fit state to be carried on to its destination, he should under-

take said expense and care at the charge of the owner of the cargo, but if possible should first communicate with him.

Instead of keeping and carrying on the cargo in his own vessel when she is rendered seaworthy, he may tranship it, if the state of the cargo permits, and send it on to its destination, either under his own contract, so entitling himself to the freight, or on behalf of the charterer.

The particular facts of each case must determine who is responsible and liable for anything done under above circumstances, but the master must, when possible, take one of above methods to protect the cargo, EXCEPT IN CASE HE CAN COMMUNICATE BY TELEGRAPH OR OTHERWISE WITH THE CHARTERERS.

It is the master's duty as agent of the owner of the cargo to act in the case of distress for the best interest of all concerned. If there be another vessel in the same or a near port which can be chartered at a reasonable figure, the master should hire it to carry the cargo to its destination when his own vessel will not be able to do so, at least in proper time; but still the master is to exercise a sound discretion adapted to the case. (32)

The master is bound during the voyage to take all reasonable care of the cargo. He is not responsible for injury done to it in consequence of any of the risks excepted in the charter or bill of lading, if himself not negligent. He is answerable for damages by rats or mice, unless they be excepted as above. (33)

The master, however, is bound to take all reasonable means to prevent injury by the excepted perils or to stop same where it has begun, and he should not leave port with a cargo on board in such a condition that further injury to it must certainly be the consequence.

The condition of it may be such that he is bound to unship it; but he is not bound to delay the vessel an unreasonable time for its restoration. In such a case he may provide for the transhipment of it to its destination. (34)

The master and owners being common carriers are responsible for goods stolen or embezzled on board the ship by the crew or other persons, or taken by pirates or destroyed by fire, unless the latter risks are excepted in the charter or bill of lading. (35)

The master and owners are liable for goods lost or injured in consequence of the ship sailing in fair weather against a rock or shallow known to expert mariners.

The master and owners are not liable for damage resulting from the cargo having something wrong with it unknown to them when it was put on board, or of sweating in the hold provided the cargo was properly stowed, or as such a cargo usually is, at the port of loading. (36)

When the ship has reached her destination, the master must moor or anchor her in the place appropriate to such a vessel engaged in the same trade and prepare immediately to deliver the cargo to the person entitled to receive it, who is the lawful holder of the bill of lading, being the consignee named therein, or his assignee, under a proper indorsement of the bill of lading. (37)

The master is not expected to determine such a difficult question as who is the legal owner of a bill of lading, and if a bill of lading in proper form is presented to him at the port of discharge, he is justified in giving up the cargo to the holder.

Where two bills of lading are presented by different parties and the master is in doubt what course to take, he ought to take a bond of indemnity from the holder to whom he means to deliver the cargo. (38)

Under ordinary circumstances delivery is made only upon payment of freight and other charges incident to the conveyance of the cargo.

Where the owners of a ship let her to another for a certain period or voyage, and the latter carries cargo for third parties, the owner of the ship has no lien on the cargo for his hire, that being superseded by the lien of the second party, and even in such a case when the possession of the ship is in the owner's hands, they may have given up their lien by express agreement in the charter as to payment. (39)

The master may detain the whole, or any part of the merchandise, for the freight of all that is received on board under one contract, and consigned to the same person. (40)

Where goods of the same owner are sent in the same ship under different contracts to convey to different ports in each case, no lien attaches for freight under the one contract upon goods shipped under the other. (41)

A master only has a lien on the cargo for freight, consequently he can not hold the cargo for demurrage, port charges, or for wharfage, unless there is an express contract allowing him to do so. (42)

The master may detain the goods on board until his freight is paid, keeping his ship on demurrage for a reasonable time, or he may discharge it into a warehouse not to be delivered up until the freight is paid. (43)

In the latter case he cannot retain it for the warehouse charges, but must sue for them in the ordinary way.

The master may enter and land the goods at any time after the time for delivery expressed in the charter or bill of lading, or if no such time be expressed, then after a reasonable delay after the ship is reported, on the wharf or into the warehouse named in the charter-party or bill of lading if they can be conveniently received there, and in other cases on or into the accustomed wharf or warehouse for such goods, the same being a custom house wharf or warehouse, if the goods be dutiable. However, if before all the goods are landed, the owner offers to land, he is to be allowed to do so, if without prejudice to the ship-owner. (44)

The custom house officer may detain under lien for freight. (45)

The master should not land the goods until he has given twenty-four hours' notice in writing of his readiness to deliver, as if he does so it is at his own risk and expense. (45)

Where goods have been landed and placed in charge of a warehouseman or wharfinger, and he has received written notice from the master or ship owner not to deliver same except on payment of the freight or the production of a receipt for same, the warehouseman is liable if he delivers the goods up without same. (46)

Delivery of cargo is only complete so as to do away with the lien for freight when the goods are placed under the complete dominion and control of the person who is to receive them, and the master should retain control until freight is paid, as the lien for freight only exists so long as the cargo is in his possession or control. (47)

The manner of delivering the cargo, and, consequently, the period at which the master's responsibility ceases, depends upon the custom of particular places and the usage of particular trades. (48)

## DUTIES OF SHIP-OWNERS, MERCHANTS, &c. 29

Of course it must always be remembered that all the above rules may be varied by express stipulation and agreement in the charter, or bill of lading, or otherwise.

When a consignee sends a lighter to receive the goods, the master is not bound to take care of the lighter after it is fully laden, until it can be properly removed from the ship to the wharf. (49)

If the goods are not taken as soon as the master is ready to deliver them, he is bound to wait the stipulated number of lay-days and days under demurrage, or, in the absence of stipulation, a reasonable time before he warehouse the goods, for the benefit of those concerned, subject to the payment of freight and charges due to the owners of the ship. (50)

The master and owners when a ship reaches her destination, being bound to make a complete delivery of the cargo, are liable when there is a deficiency or shortage. Any surplusage belongs to the consignee. (51)

Where a master is not allowed to land his cargo, or where having landed it he is obliged by the authorities to reship it, he cannot throw it into the sea, but he is bound to do the best for it with a view to the freighter's interest, even if he has to take it back to the port of departure. Of course in such a case he can charge for his extra trouble and work. (52)

A freighter who has hired a ship so as to be entirely under his own charge and control as owner for the time being, is bound by the law to use it in a lawful manner and according to the purpose for which she was chartered, taking such diligent care of it as a prudent man exercises with regard to his own property. (53)

Where at the time of chartering the destination is not given, or agreed to be ascertained by certain means specified, the freighter is obliged to name same within a reasonable period and cannot place a supercargo on board to name the port of discharge during the voyage. (54)

When a particular time named is stated to be "of the essence of the contract," it is binding upon the parties; if no time is mentioned, the law implies that a reasonable time is meant and the parties are severally bound accordingly, the master to have his vessel in a con-

dition to receive and the merchant to be ready with the cargo to be loaded. (55)

Where there is a known custom of the port, or a statutory regulation about the succession of turns for loading, or otherwise, and nothing appears in the contract contrary to same, the merchant is not to blame for delay, provided the vessel is loaded according to the custom or regulation. (56)

Where there is delay caused by a circumstance which was known to both parties at the time, they are presumed by law to contract with reference to such circumstance, and allowance for delay is made accordingly. For instance, a strike among the stevedores, or in a coal mine, etc., etc. Where, however, delay is caused by circumstances arising since the contract was made, and not provided for in it, the parties are bound to perform their contract within a reasonable time. (57)

It is the duty of the merchant to procure any license or permit which is required before the cargo can be obtained, and unless provided for in the contract the subsequent impossibility of doing so is no excuse for not performing his contract. (58)

The words "a full and complete cargo" do not entitle the merchant to fill the cabin or load the deck, unless in either case there is a usage or stipulation allowing him to do so. (60)

The deck, of course, must not be loaded in any season of the year that deck-loading is illegal. Where the merchant fills the cabin without leave or license of any kind, the rate of freight is a question for the jury and is not to be gauged by the rate in the charter. (61)

A merchant who charters a whole ship under contract to provide a full and complete cargo, is bound to load a full cargo, even if the vessel prove to be larger than the representations made of her size in the charter-party, provided such excess is not unreasonable (62)

The merchant is bound to give the master notice of the dangerous character of any goods which he intends to ship, unless they are open to inspection and consist of articles which are commonly known to people of the class of the master and mate as destructive; otherwise he is liable for any injury to the ship or the goods of other persons by

such negligence, and also to the forfeiture of the goods as well as to the statutory penalty. (63)

The master or owner of any ship may refuse to take on board any parcel that he suspects of containing goods of a dangerous character, and may require them to be opened to ascertain the fact, and where the goods are dangerous he may even throw them overboard. (64)

A stipulation for power to send the vessel from the port of discharge round to another port, on payment for the extra time, does not entitle the charterer to put a cargo on board for such intermediate voyage unless so mentioned. (65)

If once the cargo be on board, the freighter cannot have the goods relanded without paying the freight for them, or the destination changed without having new bills of lading signed and the old ones given up, or an indemnity given against the consequences of not performing the original contract. (66)

Where the cargo was loaded under a deception of the ship owner, or he insists on new conditions not originally stipulated for, the above is not the case. (67)

Where the master, for reasons connected with the vessel, unloads the cargo into the hands of the freighter again, the latter is not bound to reload same, having once performed his contract, except where the cause of unloading has been excepted in the contract. (68)

The freighter or consignee is bound to watch for the arrival of the ship, (not being entitled to notice thereof from the master), and to be ready to receive the cargo within a reasonable time afterwards, or within the stipulated lay-days. (69)

A freighter is not entitled to abandon the cargo because damaged and refuse to pay the freight. (70)

The refusal of the freighter to receive the cargo must be clear and decisive, and given when the master is ready to deliver in order to relieve the latter from his contract to deliver. (71)

Where a freighter's agent abroad, without any authority, substitutes and performs a different contract from that in the charter, the former may repudiate the transaction and refuse to receive the goods. (72)

Where a vessel is chartered to proceed with cargo to a "safe



port" as ordered, or as near thereto as she can safely get, and always lay and discharge afloat, "the master is not bound to discharge at a port where she cannot by reason of her draught of water, always lie and discharge afloat" without being lightened, even if she can be lightened with reasonable dispatch and safety, in the immediate vicinity of the port or in the port itself. (74)

It is the duty of a captain not merely to deliver the goods on the wharf, but as far as possible to separate the goods of different owners, so as to render them handy to their respective owners. (75)

Where after inquiry, the consignees or endorsees of a bill of lading cannot be found, the duty of the carrier is to retain the goods until they are claimed, or to store them prudently for the owner. (76)

The duty of providing and making proper use of sufficient means for the discharge of a cargo when a ship is ready to discharge lies upon the charterer. This general duty, however, may be changed or varied by the charter or by the circumstances of the case.

Where, in a charter, a charterer agrees to discharge the ship within a fixed period of time, he is bound to do so, whatever may be the nature of the impediment which prevents him from performing it.

When the agreement is that the charterer shall with all dispatch, according to the custom of the port, unload the vessel, he has performed his part of the agreement if he employs all the usual methods of dispatch at the port. (77)

Where loss by dangers of navigation is excepted in a bill of lading and the vessel is lost in a storm, the master must prove the loss by the storm, and it then lies on the merchant's part to prove want of skill or negligence on those in charge of the vessel. (78)

Where a vessel was chartered to go to Willie's Bay, to carry a load of wood to Cobourg, the charterer stating there was sufficient water to enable the vessel to approach near enough the shore to be loaded with scows, when the fact was that there was not sufficient water, the charterer was liable. (79)

Where it is the usage of the trade to carry a deck cargo in inland navigation, and such usage is known to the charterer, the master or ship-owner is not liable for a part of the deck cargo swept off in a storm, the bill of lading excepting the dangers of navigation. (80)

### DUTIES OF FORWARDERS, WAREHOUSEMEN, &c. 33

Where, on account of stress of weather, a vessel has to seek shelter in a half-way port where she tranships her cargo and sends it to its destination by another vessel, the first vessel is presumed to be the carrier throughout. (81)

Where a ship agrees to deliver a cargo at so much per ton, barrel or package as the case may be, the vessel will have to pay all dues, etc., as the merchant is entitled to have his goods delivered at the place appointed free from all expenses, except the rate of freight mentioned. (82)

Where a vessel took on cargo at Port Credit for Quebec, and without informing the shipper went to Oswego and finished loading there, and was wrecked after leaving there, it was held the vessel was liable for the Port Credit goods, as the deviation was beyond the ordinary usage of trade. (83)

The discretion a forwarder may use in the time, mode and place of shipping goods depends upon the facts of each case. (84)

Where a forwarder deviated from his instructions as to the route, but afterwards told the shipper's agent, who made no objection, he was held liable, but it would be otherwise if he had told the agent before the change and the agent had authority to allow the change. (85)

Where goods are put into a warehouse to be kept until the freight is paid and bill of lading presented, the warehouseman is justified in delivering the goods to the person who is named as consignee or indorsee of the bill of lading, on his presenting same in proper shape and paying freight, even where one of the other parts of the bill of lading has been properly indorsed to third parties for valuable consideration, provided the warehouseman was not aware of such transaction. (86)

A warehouseman or forwarder who receives goods from a ship to deliver same to other parties, is the agent of the ship-owner to demand and receive the freight, even after the cargo has been delivered by him, unless there is something in the contract or circumstances otherwise, and he has a right to retain the goods until the freight has been paid. (87)

Where a person delivers a parcel to carry to a person on board a

boat, not as to a servant of the owners, but to be carried by such person himself, either for reward or otherwise, the person so engaging to carry it is alone responsible for its loss. To render the owners of the boat liable, it would have to be proved that the parcel was delivered to an employee of the boat as such, and that they did not exhibit that care which a prudent man would take of his own goods. (88)

## NOTES.

(1) *Lyon v. Mells*, 5 East 427; *Gibson v. Small*, 4 H. of Lds. 353; *Havelock v. Geddes*, 10 East 536; *Redhead v. Midland Railway Co.*, L. R. 2 Q. B. 412; *Coffs v. Bernard*, 2 Lord Raym. 909, 918; *Dale v. Hall*, 1 Wills. 281; *Laveroni v. Drury*, 8 Exch. 166; *Thompson v. Gillespie*, 5 E. and B. 209; *Fawcett v. Sorsfield*, 5 E. and B. 192; *Stanton v. Richardson*, L. R. 7 C. P. 421; *Richardson v. Stanton*, L. R. 7 C. P. 421; *Blyth v. Smith*, 5 M. and G. 405.

(2) *Lyon v. Mells*, 5 East 428; *Phillips v. Clark*, 26 L. J. (C. P.) 168; *Grill v. Screw Colliery Co.*, 33 L. J. (Ex.) 269; *Ohrloff v. Briscoe*, L. R. 1 P. C. 231; *Leun v. Dudgeon*, L. R. 3 Ex. 17; *Phillips v. Edwards*, 28 L. J. (Ex.) 52.

(3) *Stanton v. Richardson*, L. R. 7, C. P. 435.

(4) *Oliver v. Fielden*, 4 Exch. 135.

(5) *Fletcher v. Gillespie*, 3 Bing. 635; *Cooke v. Wilson*, 1 C. B. (N. S.) 153; *Cooke v. Wilson*, 26 L. J. (C. P.) 15; *Blakie v. Stenbridge*, 28 L. J. (C. P.) 329.

(6) *Fragano v. Long*, 4 B. and C. 219; *Cooke v. Wilson*, 1 C. B. (N. S.) 153; *Molloy*, Bk. 2, C. 2, S. 2; *Rocens*, Not. 88; *Corban v. Downe*, 5 Esp. 41.

(7) *Morse v. Strue*, 1 Vent. 190, 238; *Rich. v. Kneeland*, Hob. 17, 2 Cro. 330; *Coggs v. Bernard*, 2 Lord Raym. 909, 918; *Barclay v. Y'Gana*, 3 Doug. 389.

(8) *Maelachlan on Shipping* 386.

(9) *Goff v. Clinkard*, 1 Wills. 282.

(10) *Maelachlan on Shipping*, 386; *Towse v. Henderson*, 4 Exch. 800; *Kinter's case*, Leon 46.

(11) *Anglo African Co. vs. Lamzed*, L. R. 1 C. P. 226; *Sack v. Ford*, 13 C. B. N. S. 90; *Sack v. Ford*, 32 L. J. (C. P.) 12.

(12) *Blaikie v. Stenbridge*, 28 L. J. (C. P.) 329; *Gilkison v. Middleton*, 26 L. J. (C. P.) 209; *S. C.*, 2 C. B. (N. S.) 134; *Gillespie v. Thompson*, 2 Jur. N. S. 712 N.; *Alston v. Herring*, 11 Exch. 822; 25 L. J. (Ex.) 177; *Hutchinson v. Guion*, 28 L. J. (C. P.) 63.

(13) *Major v. White*, 7 C. and P. 41; *Hovile v. Stephenson*, 4 C. and P. 469; *Blaikie v. Stenbridge*, 28 L. J. (C. P.) 212; in error, 29 L. J. (C. P.) 212; *Swainston v. Garrick*, 2 L. J. (Ex.) 255.

(14) *Blaikie v. Stenbridge*, 28 L. J. (C. P.) 329, 331; *Petrie v. Aitcheson*, 15 Fac. Coll. 493.

(15) *Major v. White*, 7 C. and P. 41.

(16) *Couch v. Steel*, 3 E. and B. 402; *Ritchie v. Atkinson*, 10 East 296.

(17) *Cunard v. Hyde*, 29 L. J. (Q. B.) 6; *Havelock v. Hancill*, 3 T. R. 227; *Lockyer v. Offey*, 1 T. R. 252; *Malloy*, Bk. 2, C. P., 8, 7; see *MacLachlan on Shipping* 388.

(18) *Falk v. Fletcher*, 18 C. B. N. S. 403; 34 L. J. (C. P.) 146.

(19) See 2 *Arnould's Ins.* 589; *Worms v. Storey*, 25 L. J. (Ex.) 1; 11 Exch. 427.

(20) *Levy v. Costerton*, 4 Camp. 389.

(21) *Smith v. McGuire*, 27 L. J. (Ex.) 465, 672; *Soames v. Lovergan*, 2 B. and C. 564; *Harries v. Edmonds*, 1 C. and K. 686; *Reid v. Hoskins*, 6 E. and B. 953; 5 E. and B. 729; *Wilson v. Hicks*, 26 L. J. (Ex.) 242; *Staniforth v. Lyall*, 7 Bing. 169; *Barrick v. Buba*, 2 C. B. (N. S.) 563; *Avery v. Bowden*, 5 E. and B. 714; (in error) 7 E. and B. 953; *Barker v. Hodgson*, 3 M. and Sel. 267; *Hudson v. Ede*, L. R. 2 Q. B. 566; 3 Q. B. 412.

(22) *Matthews v. Lowther*, 5 Exch. 574.

(23) *Fairbridge v. Pace*, 1 C. and K. 317; *Barrick v. Buba*, 2 C. B. (N. S.) 563; *Stanton v. Austin*, L. R. 7 C. P. 651.

(24) *Heyman v. Parish*, 2 Camp. 149; *Molloy Bk.*, 2 C. 2 88, 4 *Roccus*, Not. 56.

(25) *McAndrew v. Adams*, 1 Bing. N. C. 29, 38; *Davis v. Garrett*, 6 Bing. 716; *Freeman v. Taylor*, 8 Bing. 124; *Mount v. Larkins*, 8 id. 108; *Palmer v. Marshall*, 8 id. 317.

(26) *Davis v. Garrett*, 6 Bing. 716; *Parker v. James*, 4 Camp. 112; *Salvador v. Hopkins*, 3 Burr. 1707; *Gregory v. Christie*, 3 Doug. 419; *Vallance v. Dewar*, 1 Camp. 503; *Ougier v. Jennings*, 1 Camp. 505; *Solisbury v. Townson*, 1 Burr. 341.

(27) *Clason v. Simmonds*, 6 T. R. 533; *Beatson v. Haworth*, 6 T. R. 531; *Marsden v. Reid*, 3 East 572; *Gardner v. Sevhouse*, 3 Taunt. 16; *Bragg v. Anderson*, 4 Taunt. 229; *Lambert v. Liddiard*, 5 Taunt. 480; *Ashley v. Pratt*, 16 M. and W. 471.

(28) *Ogden v. Graham*, 1 B. and S. 773; 31 L. J. (Q. B.) 26; *Geifel v. Smith*, L. R. 7 Q. B. 404; *The Teutonia*, L. R. 4 P. C. 171.

(29) *Lawrence v. Lydebotham*, 5 East 45, 54; *The Beaver Conner*, 3 C. Rob. 292.

(30) *Sieveling v. Mass*, 25 L. J. (Q. B.) 275; (in error) 25 id. 358; 6 E. and B. 670; *The Teutonia*, 4 P. C. 171.

(31) *Worms v. Storey*, 25 L. J. (Ex.) 1, 11 Exch. 427 S.C.; *Hollingworth v. Brodrick*, 7 A. and E. 40; *Blasco v. Fletcher*, 32 L. J. (C. P.) 284.

(32) *The Bahia Br. and L. Ad.* 292; *Cammell v. Sewell*, 3 H. and N. 617; (in error) 5 H. and N. 728; *Vlierboom v. Chapman*, 13 M. and W. 230; *Duncan v. Benson*, 1 Exch. 537; (in error) 3 Exch. 644; *Hunter v. Prinsep*, 10 East 378, 393; *Shipton v. Thornton*, 9 A. and E. 314.

(33) *Emerigon*, t. 1. p. 377; *Dale v. Hall*, 1 Wils. 281; *Laveroni v. Drury*,

8 Exch. 166, 22 L. J. (Ex.) 2 S. C.; Hunter v. Potts, 4 Camp. 203; Kay v. Wheeler, L. R. 2 C. P. 302.

(34) Notara v. Henderson, L. R. 5, Q. B. 346, 7 Q. B. 225; Tronson v. Dent, 8 Moore P. C. 419; Kidston v. Empire Ins. Co., L. R. 1 C. P. 535.

(35) Hyde v. the Trent and Mersey Navigation Co., 5 T. R. 389; Forward v. Pittard, 1 T. R. 27.

(36) Blower v. G. W. Ry. Co., L. R. 7 C. P. 665; Kendall v. L. & S. Western Ry. Co., L. R. 7 Ex. 373; Baxter v. Leland, 1 Abbott's Ad. (U. S.) 348; Clarke v. Barnewell, 12 Howard (U. S.) 272; Rich v. Lambert, 12 Id. 347.

(37) Meyerstein v. Barber, L. R. 2 C. P. 38; Sheridan v. New Quay Co., 4 C. B. N. S. 618; 28 L. J. (C. P.) 58; Fearon v. Bowers, 1 H. Blkst. 364.

(38) The Tigress, 32 L. J. (Ad.) 97; Caldwell v. Ball, 1 T. R. 205.

(39) Thompson v. Small, 1 C. B. 328; Lucas v. Nockalls (in error) 4 Bing. 729; Alsager v. The St. K. Dock Co., 14 M. and W. 794; Foster v. Colby, 28 L. J. (Ex.) 81.

(40) Soldergreen v. Flight Guildhall Sit. F. T. T. 1796; Hanson v. Meyer, 6 East 614, 622, 623; Moller v. Young, 5 E. and B. 715 *ibid.* 755.

(41) Bernal v. Pim, 1 Gale 17; Code de Com. Art. 307, 308.

(42) M. and E. Bank v. Gladstone, L. R. 3 Ex. 233; Foster v. Colby, 28 L. J. (Ex.) 81; Shand v. Sanderson, *ib.* 278; Phillips v. Rodie, 15 East 547; Birley v. Gladstone, 3 M. and Sel. 205; Faith v. East India Co., 4 B. and Ald. 630, 642; Bishop v. Ware, 3 Camp. 360; How v. Kirchner, 11 Moore P. C. 21; Kirchner v. Venus, 5 Jur. N. S. 395; Gray v. Carr, L. R. 6 Q. B. 522; Kerford v. Mondel, 28 L. J. (Ex.) 303; McLean v. Fleming, L. R. 2 Ho. of Lds. 128 (Scotch).

(43) Meyerstein v. Barber, L. R. 2 C. P. 38; Mors-le-Blanch v. Wilson, L. R. 8 C. P. 227.

(44) 25 and 26 Viet., C. 63, S. 67, Sub S. 1, 2, 3, 4, 5; Wilson v. L. I. and A. Stm. Navig. Co., L. R. 1 C. P. 67.

(45) 22 and 23 Viet. C. 37, S. 2.

(45) 25 and 26 Viet., C. 63, S. 67, Sub S. 7; Beresford v. Montgomerie, 34 L. J. (C. P.) 41.

(46) 25 and 26 Viet., C. 63, S. 68, 69, 70; Hammond v. McRee, 3 C. L. R. 1198; Kerford v. Mondel, 28 L. J. (Ex.) 303.

(47) Meyerstein v. Barber, L. R. 2 C. P. 50.

(48) Gatcliffe v. Bourne, 4 Bing. N. C. 314; Petrocchino v. Bott, L. R. 9 C. P. 355; Wardell v. Mourillgan, 2 Esp. 603.

(49) MacLachlan on Shipping, p. 409.

(50) Howard v. Shepherd, 9 C. B. 297; Gatcliffe v. Bourne, 4 Bing. N. C. 314.

(51) Bradley v. Dmiface, 32 L. J. (Ex.) in error 22.

(52) The Cargo Ex. Argos Brown v. Gandet, L. R. 5 P. C. 135; 4 Ad. 13.

(53) MacLachlan on Shipping, p. 413.

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(54) *Rae v. Hackett*, 12 M. and W. 724; *Woolley v. Reddelien*, 5 M. and Gr. 316; *Stewart v. Rogerson*, L. R. 6 C. P. 421.

(55) *Taylor v. Clay*, 9 Q. B. 713; *Kearon v. Pearson*, 7 H. and N. 386, 31 L. J. (Ex.) 1.

(56) *Taylor v. Clay*, 9 Q. B. 713; *Leidman v. Schultz*, 14 C. B. 38; *Hudson v. Ede*, L. R. 2 Q. B. 506, 3 id. 412.

(57) *Harris v. Dreesman*, 23 L. J. (Ex.) 210; *Hudson v. Ede*, L. R. 2 Q. B. 506; *Adams v. R. M. S. P. Co.*, 28 L. J. (C. P.) 33; *Paradine v. Jane Alley*, 27; *Hills v. Sughrue*, 15 M. and W. 253; *S. P. Blight v. Page*, 3 B. and P. 295 N.; *Hadley v. Clarke*, 8 T. R. 259; *Barber v. Hodson*, 3 M. and Sel. 267.

(58) *Johnson v. Greaves*, 2 Taunt. 344; *Kirk v. Gibbs*, 1 H. and N. 810; *Hills v. Sughrue*, 15 M. and W. 253.

(59) *The Adams Ed. Ad.* 289; *The Fortuna, Verissimo*, 1 Dods. Ad. 81; *The Donna Marianna*, 1 id. 91; *The Diana*, 1 id. 95.

(60) *Mitcheson v. Nicol*, 7 Exch. 929; *Gould v. Oliver*, 4 Bing. N. C. 134, 2 M. and Gr. 208, 2 Scott N. R. 241; *Neill v. Ridley*, 9 Exch. 677.

(61) *Cunard v. Hyde*, 29 L. J. (Q. B.) 6; *Mitcheson v. Nicol*, 7 Exch. 929.

(62) *Jones v. Holm*, L. R. 2 Ex. 335; *Cole v. Meek*, 33 L. J. (C. P.) 183; *Thomas v. Clark*, 2 Stark 450, 452; *Hunter v. Fry*, 2 B. and Ald. 421; *Windle v. Barker*, 25 L. J. (Q. B.) 349; *Lady James v. East India Co.*, M. T. 1789 *Abbott*; *Gibbs v. Gray*, 2 H. and N. 22.

(63) *Brass v. Maitland*, 6 E. and B. 471, 26 L. J. (Q. B.) 49 S. C.; *Farrant v. Barnes*, 31 L. J. (C. P.) 192; *Williams v. East India Co.*, 3 East 192; *Alston v. Herring*, 11 Exch. 822; 36 and 37 Viet., C. 85, S. 8. 23, 28; *Gillespy v. Thompson*, 2 Jur. N. S. 712 N.

(64) *Crouch v. The L. and N. W. R. Co.*, 11 C. B. 255, 23 L. J. (C. P.) 73 Sc.; 36 and 37 Viet., C. 85, S. 8. 25, 26.

(65) *Cockburn v. Wright*, 6 Bing. N. C. 323.

(66) *Davidson v. Gwynne*, 12 East 381; *Tindall v. Taylor*, 4 E. and B. 219.

(67) *Peek v. Larsen*, L. R. 12 Eq. 378.

(68) *G. S. N. Co. v. Shipper*, 31 L. J. (C. P.) 185; *Richardson v. Stanton*, L. R. 7 (C. P.) 421; *Jones v. Holm*, L. R. 2 Ex. 335.

(69) *Harman v. Clarke*, 4 Camp. 159; *Harman v. Mant*, 4 Camp. 161; *Rodgers v. Forresters*, 2 Camp. 483; *Randall v. Lynch*, 12 East 179, 182.

(70) *Dakin v. Osley*, 33 L. J. (C. P.) 115.

(71) *Ripley v. McLure*, 4 Exch. 345; *Reid v. Hoskins*, (in error) 6 E. and B. 953; *Barrick v. Buba*, 2 C. B. N. S. 563, 26 L. J. C. P. 280; *Hockster v. De Latour*, 22 L. J. (Q. B.) 455.

(72) *Sickens v. Irving*, 20 L. J. (C. P.) 25; *Erichsen v. Barkworth*, (in error) 28 L. J. (Ex.) 95.

(73) *Parsons on Shipping*, H. 20; *Notara v. Henderson*, L. R. 7 Q. B., 230 Ex. Ch.

(74) *The Alhambra*, 3 P. D. 68; 50 L. J., P. 36; 43 L. T. 636; 29 W. R. 655 C. A.

(75) *Ontario Salt Co. v. Larkin*, 36 Q. B. 486. This case is in appeal.

- (76) *Close et. al. v. Beatty et. al.*, 28 C. P. 470.
- (77) *Postlewaite vs. Freedland*, 5 App. Cas. 599; 49 L. J. Ex. 630; 42 L. T. 845; 28 W. R. 833 H. L. (E.)
- (78) *Harnden v. Proctor*, 9 Q. B. 592.
- (79) *Harvey v. Wallace*, 16 Q. B. 508.
- (80) *Stephens et. al. v. McDonell*, M. T. 6 Viet.; *Paterson v. Black*, 5 Q. B. 481; *Grover v. Bullock*, 5 Q. B. 297; *Gibb v. McDonell*, 7 Q. B. 356; *Spooner v. Western Assur. Co.*, 38 Q. B. 62; *Steinhoff v. Royal Canadian Ins. Co.*, 42 Q. B. 307.
- (81) *McConkey v. Gorrie*, 5 C. P. 430.
- (82) *Edmonstone et. al. v. Young et. al.*, 12 C. P. 437.<sup>3</sup>
- (83) *Wright v. Holcurnlee*, 6 C. P. 531; see *Wallace v. Swift*, 31 Q. B. 523.
- (84) *Fowler v. Hooker et. al.*, 4 Q. B. 18; *Waddell v. McBride*, 7 C. P. 382.
- (85) *Fowler v. Hooker et. al.*, 4 Q. B. 18.
- (86) *Glyn, Mills & Co. v. E. and W. India Dock Co.*, 7 App. Cas. 591; 52 L. J. Q. B. 146; 47 L. T. 309; 31 W. R. 201.
- (87) *Torrance et. al. v. Hayes et. al.*, 3 C. P. 274, 2 C. P. 388; *Widdle v. McIntosh*, 7 C. P. 49; *B. & L. H. R. Co. v. Gordon*, 16 Q. B. 283.
- (88) *McLeod v. Eberts et. al.*, 7 Q. B. 244; *Howland v. Bethune*, 13 Q. B. 270.

## PART IV.

NON-PERFORMANCE OF CHARTERS, DISSOLUTION OF CHARTERS,  
EMBARGO.

Where men undertake at all risks to perform a certain contract, the law visits them with damages for non performance, but a carrier is by common law exempt from liability for non-performance, when that is occasioned by the act of God, or the Queen's enemies, although not so expressly stipulated in the contract. (1)

The ordinary form of charters and Bills of Lading contain the following exceptions: "The act of God, the Queen's enemies, fire and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever, excepted." (2)

The words "The act of God," designate immediate operation of purely natural agents, such as lightning, earthquakes and tempests, exclusive altogether of human intervention. (3) By natural agents is meant the spontaneous forces of nature not directed by man. (4) The "act of God," to relieve the carrier from liability, must be immediate and not remote. (5)

The words "All acts of the Queen's enemies," includes the enemies of the sovereign of the carrier, and involves the municipal law of contract and also the law of nations in relation to the commercial marine, as effected by the existence of hostilities. (6)

In case of war with the country to which the ship belongs, a fear of capture founded on circumstances calculated to affect the mind of a master of ordinary courage, judgment and experience, would justify delay in prosecuting the voyage. (7)

The words "The dangers of the sea, rivers and navigation," include loss by pirates (9); by collision when it is without fault or



negligence (10), and the common risks of navigation from rocks, sands, rapids and the like, when the loss occasioned thereby happens without negligence or default in the master or crew. (11)

If a ship reasonably sufficient for the voyage be lost by a peril of the sea, the merchant cannot charge the ship-owners by proving that a stronger ship would have outlived the peril. (12)

The word "robbers" in a charter or bill of lading means a taking by violence, and the ship-owners would still be liable for a mere theft. (13)

A ship-owner is liable for injury to a cargo by rats, even where he keeps a cat on board, unless excepted in the contract. (14)

A ship-owner is relieved from liability for the loss of goods by showing that they were seized and confiscated under the law of the country by the Government officers. (15)

Stipulations in a contract "to sail with the first fair wind," or on a particular day, or "with the first fair wind and come direct to the port of destination," or "to sail without unreasonable delay," or "to bring home a complete cargo," are independent contracts, non-performance of which gives an action for damages, but they are not a bar to an action for the whole freight. (16)

However, where freight is made payable upon a condition which cannot be separated from the balance of the contract, such as the arrival of the ship at her port of destination, this is a condition precedent, and non-performance of it is a bar to an action for the freight. (17)

Where a contract can be performed in two ways, one of which is illegal, and the ship-owner does it in the legal way, a plea of the statute making it illegal in one way, is no bar to freight or demurrage. (18)

The exceptions above mentioned having been placed in the charter and bill of lading for the protection of the ship-owner only, (19) the freighter is liable for damages for non-performance of his contract, unless there is an express agreement that performance by him was dependent upon an event which has not happened, or unless it

appears that the benefit of the voyage is lost by the conduct of the ship-owner.

Where both parties mutually contract, taking into consideration the happening of an event antecedent to full and complete performance, which event is in the control of one of them, such event will be a condition precedent to the subsequent performance (20), as where the ship-owner states his vessel "is now in a certain port," or "will sail before a certain date." The mercantile aims of the voyage should be taken into consideration in cases of this description. (21)

In an action against the freighter for non-performance, it is no defence that one independent stipulation in the charter has not been performed by the owners (22), nor is it a defence to allege an illegal act on the part of the master in prosecuting the voyage, if such act was not in contemplation of both parties, so as to render the adventure itself illegal. (23)

Where the law imposes a duty or charge on a party who is prevented from performing it without his own fault, the law will excuse him; but where a party, by his own contract creates a duty or charge upon himself, he is bound to perform or make it good, notwithstanding any accident by inevitable necessity, because he might have provided against it by his contract. As recited by Lord Kenyon from Co. Litt. 209 *a*: "If a man undertakes what he cannot perform, he shall answer for it to the person with whom he undertakes" (24). For example: It is no defence to an action against a freighter for not loading a cargo to state that there was no cargo to load, or that the Government prohibited the cargo being loaded. (25)

Where the authorities at the port of destination refuse to allow delivery of the cargo, and the master returns to this country with the cargo on board, he is entitled to his freight, both ways, and his expenses (26). Where however the cargo is partly delivered, and the authorities stopped the delivery under stress of war, neither party can sue, each having a contributory duty to perform in the discharge which neither was allowed to perform. (27)

The freighter is bound to perform his part of the contract once, notwithstanding the occurrence of a fire on board which interrupts

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the loading and makes the repair of the vessel necessary, but where he performs it once, according to the proper sense of it, that is enough, although it be not in the way most profitable for the ship owner. (29)

The freighter has the whole of the lay days agreed on during which he may neglect to load and the ship must wait, even until the end of the demurrage days if required, unless the freighter definitely refuses at all to perform his contract so as to discharge the master from his, in which case the master may leave unloaded and sue at once. (30)

A refusal to name a wharf where to deliver a cargo, amounts to a refusal to receive it, and the damages to be recovered are the amount of the freight. (31)

Where a port of delivery is to be named after sailing, naming one which it is unsafe for the ship to enter, is a breach of the freighter's contract. (32)

In a charter containing the clause "Except in cases of riots, strikes, or any other accident beyond his control," the word "accident" does not include a snow storm, that being one of the ordinary operations of nature and not properly an accident. (33)

Where a steamboat is chartered to be returned on a certain day in good repair, "dangers of the lake excepted," it was held that damage by accidental fire, not occasioned by lightning, did not come under the exception above of "dangers of the lake." As to whether it would do so if the fire occurred from some cause connected with the engine is doubtful. (34)

Where a charter is made for a number of trips, and one or more of them is changed on account of letters and correspondence between the parties, it is merely a question of fact as to whether the parties in making any change made a new contract in place of the old one, or merely made a change to be paid for at the same rate as under the original charter. (35)

It has been held that where a vessel is chartered to be delivered back in good repair, reasonable wear and tear excepted, the loss of

an anchor and chain occurring at sea on account of a tempest would not come within the exception, and the charterer must replace them. (36)

Where a vessel was chartered at Kingston to sail with all convenient speed to Detroit and take a cargo of grain back, and she took 27 days on the voyage to Detroit, but without any fault on the part of the captain or crew, it was held that the charterer could not refuse to load her. (37)

But where a vessel at Kingston was engaged on the 24th of October to carry a cargo of grain to Kingston from Detroit, and she left Kingston on the 27th of October, but did not reach Detroit until November 15th, owing to stress of weather, it was held that as it was improbable she could ship her cargo and get back to Kingston that season, the charterer was not obliged to load her, the ship not having arrived within a reasonable time. (38)

Where a vessel was chartered to go to Kincardine and load a cargo of salt for the charterers, provided they would furnish a full cargo at a stated price and would guarantee 11½ feet of water in the harbor, it was held that as there was not 11½ feet of water in the harbor, nor such depth as would allow the vessel to take a full load, she was justified in refusing to load the salt. (39)

A vessel is liable for not discharging the cargo at the proper wharf, unless so instructed by the merchant. (40)

Where goods are delayed through the fault of a vessel owner, he is liable for damages for not forwarding the goods in the time mentioned by the contract, the damages being the difference between the price the goods brought and the price they would have sold for if delivered according to the contract. (41)

A person chartering a vessel to go to a certain place for a load, must not make any statements as to the safety of the shelter, depth of water, or facilities of loading, which he knows to be false, and he must also take care not to make any statements regarding same, calculated to mislead the vessel owner, which he does not know to be actually true. (42)

Fifty barrels of oysters were shipped at Oswego for Toronto by the "Junius," but the vessel having been obliged by stress of weather to run to Kingston, the goods were transhipped at Kingston for Toronto by the steamer "Oshawa." When they arrived in Toronto they were in an injured condition. It was held that the owner of the Junius was the carrier throughout from Oswego to Toronto. (13)

In every contract of freighting, where there is no agreement to the contrary, the ship owner impliedly warrants that his ship is seaworthy for the voyage. (14)

A ship owner is not bound to pay for shortage, although the full amount was signed for by the master in the bill of lading, if the deficiency was never put on board; but if he pays he cannot recover it back from the charterers. (15)

Where it was proved that all the cargo put on board was delivered to the consignee but it was not shown that all the cargo delivered to the vessel's agent on the dock at loading port was put on board, although they received the full amount claimed, the vessel was held liable for shortage. (16)

A vessel carrying 100 tons of pig iron to be landed at "B's" wharf in Toronto came into port at ten o'clock at night, and not finding anyone in charge of "B's" wharf, or any light, put off the iron at another dock, the vessel was held liable for extra expense incurred thereby to "B," as extra efforts should have been made to find "B" at a place where he would likely have been at that time of night; and also because that was not a reasonable time to require him to be there without notice, and even then he could not have been required to be there to receive 100 tons of pig iron at such an hour. Where the urgency of the vessel required such extraordinary dispatch for the owner's interest, it is only reasonable it should be gained at his own expense, and not at the expense and inconvenience of others. (17)

Where a charter or contract, lawful at the time of making, becomes illegal before performance, it is absolutely dissolved, and neither party is bound by it.

The contract to pay freight is dissolved by the abandonment of the ship and cargo by the master and crew at sea. (18)

Where a charterer does not furnish a cargo as agreed, the amount of damages the ship is entitled to is the amount of the freight agreed on, first taking off the expense of earning it, and any freight actually earned by the ship during the time she was chartered for. (19)

Where the parties agree in the charter on a certain amount to be paid in case of non performance of the contract, the ship is entitled to this amount and also any freight she may earn besides. (50)

Delay by embargo does not in any way break the contract, whether it be by a foreign Government, or by that of both parties to the contract (51), and wages and freight continue on during the embargo, unless there is an express contract to the contrary. (52)

Where the ship chartered is a foreign ship, and the Government of the freighter detains her, the freighter may give notice and dissolve the bargain (53), and this the freighter may do, even where the ship has received the cargo and made a start on the voyage. (54)

A contract should be dissolved (where it is by consent of the parties) in the same mode that it was made. For example: Where the charter was under seal the release should be under seal, where in writing the release should be in writing, and all bills of lading should be given up to the master or ship owner where a contract is dissolved, or else they should be indemnified, as they may, if not given back, get into the hands of other parties who may claim rights under them. (55)

Where a merchant puts his goods on board a general ship, and on being requested to sign the bills of lading finds there are several obnoxious conditions therein, which he was not before aware of, he is entitled to take his goods away again. (56)

#### NOTES.

(1) *Paradine v. Jane*, Aleyn 26, 2 Co. Litt. 201 a; *Blight v. Page*, 3 P. and F. 205; *Hadley v. Clarke*, 8 T. R. 259; *Barker v. Hodgson*, 3 M. and Sel. 267; *Hall v. Wright*, 29 L. J. (Q. B.) 43.

(2) *Liver Alkali Co. v. Johnson*, L. R. 9 Ex. 338.

(3) *The Trent Nav. Co. v. Wood*, 4 Doug. 287; *Forward v. Pittard*, 1 T. R. 27.

- (4) *Siordet v. Hall*, 4 Bing. 607; *Fletcher v. Rylands*, L. R. 1 Ex. 265, in error.
- (5) *Smith v. Shepperd*, see *MacLachlan on Shipping*, page 499.
- (6) *Russell v. Nieman*, 34 L. J. (C. P.) 10; *The Tentonia*, L. R. 4 P. C. 171; *Pole v. Ceteovich*, 9 C. B. N. S. 430, 30 L. J. (C. P.) 102.
- (7) *The San Roman*, L. R. 5, P. C. 305; *The Heinrich*, L. R. 3, Ad. 424.
- (9) *Pickering v. Barclay*, Style 132, 2 Roll. Ab. 218.
- (10) *Buller v. Fisher*, 3 Esp. 67; *Lloyd v. Gen. Screw Collier Co.*, 33 L. J. Ex. 269; *Grill v. Gen. Screw Collier Co.*, L. R. 1, C. P. 600; *Czech v. Gen. S. N. Co.*, L. R. 3, C. P. 14.
- (11) *Fletcher v. Inglis*, 2 B. and Ald. 315.
- (12) *Amies v. Stevens*, 1 Stra. 128; *Bull Nt. Prius*, 69.
- (13) *De Rothschild v. Royal Mail S. P. Co.*, 7 Exch. 734.
- (14) *Laveroni v. Dury*, 8 Exch. 166; *Dale v. Hall*, 1 Wils. 281; *Kay v. Wheeler*, L. R. 2, C. P. 302.
- (15) *Spence v. Chadwick*, 10 Q. B. 517; *Gosling v. Higgins*, 1 Camp. 451; *Evans v. Hutton*, 4 M. and Gr. 954; see *MacLachlan on Shipping*, p. 503.
- (16) *Bone v. Eyre*, 1 H. Bl. 273; *Ritchie v. Atkinson*, 10 East 295, 306; *Seeger v. Duthie*, 29 L. J. (C. P.) 253; *Constable v. Clothier*, Palmer 397; *Hall v. Cazenove*, 4 East 477; *Davidson v. Gwynne*, 12 East 381; *Bornman v. Tooke*, 1 Camp. 377; *McAndrew v. Adams*, 1 Bing. N. C. 29; *Tarrachian v. Hickie*, 1 H. & N. 183; *Ritchie v. Atkinson*, 10 East 295; *Glaholm v. Hays*, 2 M. and Gr. 257; *Chipsham v. Vertue*, 5 Q. B. 265; *Wheeler v. Bavidge*, 9 Exch. 668; *Meyer v. Dresser*, 33 L. J. (C. P.) 289; *Behn v. Burness*, 32 L. J. (Q. B.) 204.
- (17) *Smith v. Wilson*, 8 East 437; *Cook v. Jennings*, 7 T. R. 381; *Bright v. Cowper*, 1 Browne 21; *Ritchie v. Atkinson*, 10 East 295, 308; *Behn v. Burness*, 32 L. J. (Q. B.) 204.
- (18) *Waugh v. Morris*, L. R. 8 Q. B. 202; *The Tentonia*, L. R. 4, P. C. 171.
- (19) *Blight v. Page*, 3 B. and P. 295, note; *Touting v. Hubbard*, 3 B. and P. 295, 298; *Storer v. Gordon*, 3 M. and Sel. 308, 321; *Bruce v. Nicolopulo*, 24 L. J. (Ex.) 321.
- (20) *Glaholm v. Hays*, 5 M. and Gr. 257; *Shadforth v. Higgin*, 3 Camp. 385; *Ollive v. Booker*, 1 Exch. 416; *Olliver v. Fielden*, 4 Exch. 135; *Soames v. Lovergan*, 2 B. and C. 564; *Davidson v. Mure*, 3 Doug. 28.
- (21) *Ollive v. Booker*, 1 Exch. 416; *Glaholm v. Hays*, 2 M. and Gr. 257; *Behn v. Burness*, 32 L. J. (Q. B.) 204; *McAndrew v. Adams*, 1 Bing. N. C. 29; *McAndrew v. Chapple*, L. R. 1, C. P. 643.
- (22) *Storer v. Gordon*, 3 M. and Sel. 308; *Stephens v. Price*, 3 Doug. 353; *Carr v. W. Petroleum Co.*, L. R. 1, C. P. 636.
- (23) *Wilson v. Foderingham*, 1 M. and Sel. 468.
- (24) *Paradine v. Jane Aleyn* 26; *Hall v. Wright*, 29 L. J. (Q. B.) 43, in error; *Blight v. Page*, 3 B. and P. 295, note; *Hadley v. Clarke*, 8 T. R. 259.

(25) *Blight v. Page*, 2 B. and P. 295, note; *Lycerda v. Luscombe*, 16 East 201; *Hills v. Sughrue*, 15 M. and W. 253; *MacLachlan on Shipping*, page 506; *Barker v. Hodgson*, 3 M. and Sel. 207.

(26) *Cargo Ex. Argos*, L. R. 5, P. C. 134.

(27) *Forde v. Cotesworth*, L. R. 5, Q. B. 544.

(28) *Exporte Chevasse re Grunzebrook*, 34 L. J. (bkpy.) 17.

(29) *Jones v. Holm*, L. R. 2, Ex. 335; *Gen. Stm. Nav. Co. v. Shipper*, 31 L. J. (C. P.) 185; *Duckett v. Satterfield*, L. R. 3, C. P. 227; *S. S. C. Co. v. Clarke*, L. R. 4, Exch. 73.

(30) *Hudson v. Ede*, L. R. 2, Q. B. 560; *Hochster v. De La Tour*, 22 L. J. (Q. B.) 455, 2 E. and B. 678; *Frost v. Knight*, L. R. 5 Ex. 322.

(31) *Stewart v. Rogerson*, L. R. 6, C. P. 424.

(32) *The Teutonic*, L. R. 4, P. C. 171; *Pole v. Cateovich*, 9 C. B., N. S. 430, 30 L. J. (C. P.) 102.

(33) *Fenwick v. Schmalz*, L. R. 3, C. P. 313; *Crow v. Falk*, 8 Q. B. 467; *Bruce v. Nicolopulo*, 24 L. J., Ex. 321; *Valente v. Gibbs*, 28 L. J. (C. P.) 229; *Songer v. Dutchie*, 39 L. J. (C. P.) 253.

(34) *Larned v. McRae*, 1 Q. B. 99.

(35) *McPherson et al. v. Cameron*, 15 Q. B. 48.

(36) *Anglin v. Henderson*, 21 Q. B. 27.

(37) *Brown v. Lamont*, 30 Q. B. 392.

(38) *Brown v. Lamont*, 32 Q. B. 167.

(39) *Gray et al. v. Schooley*, 43 Q. B. 209.

(40) *Beard et al. v. Steele*, 34 Q. B. 43.

(41) *Monteith v. The Merchants' Despatch and Trans. Co.*, 1 O. R., Q. B. D. 47.

(42) *Harvey v. Wallace*, 16 Q. B. 508.

(43) *McConkey v. Gorrie*, 5 C. P. 430.

(44) *Kopitoff v. Wilson*, 1 Q. B. Div. 377.

(45) *Brown v. Powell*, D. S. C. Co., L. R. 10, C. P. 562.

(46) *Beard et al. v. Steele*, 34 Q. B. 43.

(47) *Beard et al. v. Steele*, 34 Q. B. 43.

(48) *The Kathleen*, L. R. 4, Ad. 269.

(49) *Stewart v. Rogerson*, L. R. 6, C. P. 424; *Smith v. McGuire*, 3 H. and N. 554; *Puller v. Stamford*, 11 East 232; *Stamford v. Lyall*, 7 Bing. 169; *Wilson v. Hicks*, 26 L. J. (Ex.) 242; *Abbot on Shipping*, 4th Ed. 439; *Sedjwick on Damages*, 2nd Ed. 361; *Harries v. Edmonds*, 1 C. and K. 686.

(50) *Bell v. Puller*, 2 Taunt 285; *Cargo Ex. Argos*, L. R. 5 P. C. 134.

(51) *Blight v. Page*, 3 B. and P. 295, note; *Bergstrom v. Mills*, 3 Esp. 36; *Thompson v. Roweroft*, 4 East 43; *Hadley v. Clarke*, 8 T. R. 259; *Beale v. Thompson*, 4 East 546; *The Boedes Lust*, *Sybrandts* 5, C. Rob. 246.

(52) *Beale v. Thompson*, 4 East 546; *Bergstrom v. Mills*, 3 Esp. 36.

(53) *Tonteng v. Hubbard*, 3 B. and P. 291.



(54) *Isabella Jacobina Sovergren*, 4 C. Rob. Ad. 77; *The Werldoborgaren*, *Lagerholm* 4 C. Rob. Ad. 17; *Hadley v. Clarke*, 8 T. R. 259.

(55) *Tindall v. Taylor*, 4 E. and B. 219; *Davidson v. Gwynne*, 12 East 381; *Peck v. Larsen*, L. R. 12 Eq. 378.

(56) *Peck v. Larsen*, L. R. 12, Eq. 378.

## PART V.—FREIGHT.

HOW CALCULATED, BY WHOM PAYABLE, TO WHOM PAYABLE, LIEN FOR,  
PAYMENT OF.

When goods are sent in a general ship the amount of freight is either settled by the agreement of the parties or the usage of the trade.

Where a certain sum be contracted, for every ton, or other portion of the ship's capacity, for the whole voyage, the payment must be according to the number of tons, &c., which the ship is proved capable of containing, without regard to the quantity actually put on board by the merchant. (1)

Where the merchant has stipulated to pay a certain sum per cask or bale of goods, &c., the payment must be according to the number of casks or bales shipped and delivered. (2)

Where a merchant has contracted to furnish a complete load, or a certain number of casks or bales, &c., and failed to do so, he is liable for the loss sustained by the vessel for such failure. (3)

Where an entire ship is hired and her burden mentioned in the charter, but the merchant contracts to pay a certain sum for every ton, &c., of goods that he shall put on board and does not contract to furnish a full load, the master cannot demand freight for more than the quantity of goods actually shipped. (4)

Where the merchant contracts to pay a certain sum for every month, week, or other period of the voyage, the time begins from the day on which the ship starts in prosecution of her voyage and continues during the course of it, including unavoidable delays not occasioned by the act or neglect of the ship-owners or master, and freight in such a case is payable for the time consumed in necessary repairs during the voyage, if it does not appear that the ship was insufficient at the

start, or that there was any improper delay in repairing her. Of course express stipulation in the charter may change above rules (5), and in charters coming under this class the parties may bargain that the voyage must be performed before any freight is due. (5)

Where there is no express contract as to the rate of freight, unless it is proved that the goods were to be carried free, the rate will be the reasonable rate of freight current at the time between the same ports for the class of goods and vessel in question. (6)

Where grain or goods are shipped at a certain rate of freight per bushel or package, the rule is that the master is entitled to freight on the nett quantity ascertained by the legal scales at the port of delivery. This rule does not hold when it is proved that the above test is untrue. (7)

It is now customary for merchants and ship-owners to agree in charters for grain cargoes that in case the cargo or any part is delivered in a heated or damaged condition, freight is payable on the invoice quantity taken on board as stated in the bill of lading, or half freight upon the damaged or heated portion, at the captain's choice. (8)

No part of the freight is due unless the whole is earned, except in case where the freighter himself prevents complete performance. (9)

Delivery is implied in every carrier's contract and is expressly stipulated in all ordinary charters and bills of lading. Delivery forms part of the voyage which is not ended till this be completed (10). A mortgagee taking possession before the whole of the cargo is delivered is in time to entitle himself to the whole of the freight. (11)

In some contracts to carry for a gross sum in the name of freight, the freight is not due except on complete performance, whilst in others the full sum is owing notwithstanding imperfect delivery, the defect being covered by the excepted perils, or by the act of the freighter, or the vice of the cargo, or being the subject of cross-action against the ship-owner. (12)

Although it is the general rule that there is no freight due without delivery, whatever claim there may be for damages (13), there are two exceptions to this rule. The first arises under circumstances in which the value of the goods and the amount of the freight must be deter-

## CALCULATION OF FREIGHT, BY WHOM PAYABLE, &c. 51

mined upon the principle of general average; and the second, when goods have been necessarily sold to bring the vessel home, the master being liable for their value and entitled to his full freight for them. (13)

In the case of men or cattle dying during the voyage without fault or neglect on the part of the ship's crew, the master is entitled to freight for them, if there be no express agreement as to freight being paid for lading or transporting them. If the charter be for lading and undertaking to carry them, freight is certainly due on them, but if the contract be to pay freight for transporting them, no freight is due for those that die on the passage. (14)

Where packages, bales, &c., are duly delivered, damage to the contents thereof although occasioned by the default and negligence of the master and crew, is no answer to a demand for freight, but the merchant may claim for damages. (15)

Where the value of a cargo is lessened by the fault of the master or mariners, the merchant is entitled to compensation and may recover it by an action at law against the owners or master.

A merchant cannot abandon the cargo to the ship-owner in place of his freight. (16)

Where the loss in value of the cargo is caused by the fault of the cargo itself, even if aided by the confinement or closeness of the ship's hold, the merchant must bear the loss and pay the full freight, the master and owners not being in fault. (17)

Where a ship and cargo are lost during the voyage, no freight is due. (18)

Where war at the port of discharge endangers the safety of the ship and the contract admits of substantial performance by delivery at another port, the ship-owner will be entitled to freight by delivery there. (19)

Where no goods are put on board through default in the freighter, although the ship was all ready and willing to receive them, the ship-owner is entitled to damages for breach of the contract. (20)

Where the goods are once on board the merchant cannot have them

relanded without paying the full freight, even if the ship has not started on the voyage. (21)

Where the charterer's agent abroad without authority changes the old contract for a new one, or a different cargo from that agreed on by the charterer, the latter is not bound by it or liable for freight or damages if he throws up the contract, provided there was nothing on his part to lead the master to believe the agent had any such power. (22)

The master can only claim freight for the quantity of goods delivered where he only delivers part, unless he makes good the shortage, when he will be entitled to freight for the whole.

Where the cargo, without loss or destruction of any part, has become accidentally swelled, or perhaps diminished by drying, freight is payable upon the quantity shipped, unless there is a custom or usage of trade, or a stipulation in the contract to the contrary. (23)

Where the ship is disabled at an intermediate port, the master may retain the cargo for a reasonable time till the ship is repaired sufficiently to complete the voyage, or he may send it on by another vessel. Where he cannot or does not repair his ship and abandons the voyage without sending the goods on by another vessel, he loses all his freight, but where the owners of the cargo refuse to allow him either to bring it by his own ship or send it on by another, he is entitled to his full freight.

If there is a voluntary acceptance of the goods by the owner at an intermediate port under such circumstances as would lead one to believe the further carriage of the goods is dispensed with, the master will be entitled to freight for the distance he has carried the cargo. (24)

If there be a round voyage out and in and the ship is lost on the return trip, no freight is due at all, unless by the contract the trip out and the return voyage can be construed as two separate voyages, in which case freight is due for the first one. (25)

Where the voyage is illegal no freight can be collected, even if the voyage has been completed and the cargo landed. (26)

The inception of freight is the ship's breaking ground, or casting off

her moorings to start the voyage, and the inchoate right which then attaches is consummated upon the delivery of the cargo. If the voyage is interrupted and the duty of the master respecting the cargo is ended, through no fault of his own, he is entitled to the freight; but if he is merely delayed, he is bound to complete his voyage before he has any title to his freight. These rules are liable of course to be changed by the express agreement of the parties. (27)

In the case of capture during war, the captor succeeds to the rights and some of the liabilities of both master and freighter, and where the ship is condemned as a prize but not the cargo, the captor to entitle himself to the freight must carry the cargo to its destination and where the ship is condemned but not the cargo, the captor is liable to the master for the full freight, capture being in law equal to delivery.

Where both the ship and cargo are released the master must go on and complete the voyage, as the parties are placed in the same position as before the capture, but if the cargo is taken out of the ship under commission or decree of delivery, although before sentence of the Prize Court, the contract is at an end and the master entitled to the freight, although he refuse to reload the cargo in order to take it to its destination. (28)

The master of a neutral ship forfeits his freight and expenses by conduct not purely neutral, such as carrying contraband of war, engaging in the coasting or colonial trade of the enemy, when such trade is not open to all the world in times of peace, by trading between the ports of allied enemies with false papers, by spoliation of papers, falsehood and other acts of *mala fides*. (29)

Where a charter stipulates for a full and complete cargo and a lump sum to be paid for freight on delivery, the usual exception of sea risks being mentioned, part of the cargo was lost by perils of the sea without any fault of the master or crew, the ship owner was held entitled to the full freight on delivery of the balance. (30)

The general rule that cargo is to be paid for according to the quantity delivered at the port of discharge, must hold good unless words showing clearly an intention that the measurement at the loading port is to be taken, are in the charter. (31)

Where the bill of lading states that the vessel is to pay shortage, the consignee representing the charterer has no right to deduct the shortage from the freight. (32)

Where goods are carried to their destination, although spoiled so as to be of no value, the owner cannot abandon the goods for the freight, but the master is entitled to his full freight for the transportation of the goods. (33)

The person primarily liable for the freight is the freighter or shipper, and although the master may detain the cargo until his freight be paid, still if he delivers it without demanding the freight, he has still the right to recover from the freighter. (34)

When the assignee of the bill of lading is a mere agent for the purpose of receiving the cargo, and is known to the master as such, he is not liable for the freight upon his acceptance of the goods. (35)

Where an agent receives goods under such circumstances as to make him liable for the freight, he is still liable even where he has paid the proceeds of the cargo to the freighter without deducting his freight. (36)

Where the vessel is disabled and the master hires another ship to complete the voyage at a less rate, he is entitled to the full freight (37), but it is not certain whether in case he has to pay more for the new vessel he or the merchant should pay the extra amount. (38)

In the United States it is the duty of the master to hire another vessel where his own is permanently disabled, and any excess over the original freight is to be paid by the merchant and the assurers. (39)

Freight is primarily payable to the owner of the vessel, generally through his agent, the master. (40)

A mortgagee of a ship who takes possession before the completion of the voyage, or does what amounts thereto, is entitled to the freight (41), but he cannot intercept the freight by giving notice to the charterer before payment without taking possession. (42)

Where a ship is abandoned to the assurers, all freight pending at the time of the accident passes to the assurers in case it is finally earned by the same vessel.

Even where the ship-owner insures his freight the underwriter of the ship is the person entitled to possession. (43)

Where the ship and freight are insured separately the freight earned belongs to the insurers of the ship (44) ; but in the United States it is different, the freight being divided *pro rata itineris* between the underwriters on the ship and those on the cargo. (45)

A registered mortgagee who takes possession is ahead of the assignee of the freight, although the latter before him completed his title by notice in writing to the charterers. (46)

Where the vessel is chartered and put up as a general ship the freight is payable to the charterer, subject to the ship-owner's right of lien on the goods for the freight due him unless he expressly parted with such right. (47)

A carrier has a lien for freight properly so called, on the goods carried, but there is no such lien for money payable in advance, though often called freight, as it is not freight. (48)

There is no lien for dead freight, demurrage, port charges, or wharfage. (49)

There is no lien even for freight without the possession of the goods, and a ship-owner who has transferred the possession of the ship to another, loses his lien thereby. (50)

Where in a charter the ship-owner binds himself to give up the goods before the freight is paid, but after it is earned, he loses his lien on same for the freight and must sue the merchant for same if not paid. (51)

Of course liens may be given on the cargo by contract between the parties for freight, dead freight, demurrage, or any other claims of the ship-owner, and such liens may be valid even without possession of the cargo. (52)

The law gives the lien for freight without any provision being made for it, either in the charter, bill of lading, or elsewhere. (53)

A usage of a particular place can only affect the construction of a written contract when the parties who made the contract both know



of the usage, and therefore are presumed to have contracted with reference to it, if they have not excepted it. (54)

The master may detain any part of the goods for the freight of all consigned to the same person under the one contract, but no lien attaches for freight under one contract upon goods shipped under another contract for a different port, although they all belong to the same owner. (55)

The amount of freight for which a master may enforce his lien is *prima facie* that mentioned in the bills of lading. Where however, the charter contains a higher rate than that in the bills of lading, the rate in the charter is to be taken, provided the person holding the bills of lading and entitled to the cargo had notice of the same. (56)

A *bona fide* indorsee of a bill of lading who receives it without fraud, or notice of other freight to be paid upon it, is entitled to the cargo on payment of the freight in the bill of lading, and where he takes it with the understanding that the freight has been paid, same having been mentioned in the bills of lading, the ship-owner is not entitled to show that in fact it has not been paid. (57)

The lien on goods in a general ship for the bill of lading freight is the same whether the bill of lading is afterwards endorsed to a third person for valuable consideration, or the goods are delivered to the original consignee. (58)

The following clauses in bills of lading, "on payment of freight as per charter-party," or "they paying freight for the said goods as per charter-party," or "they paying freight for the goods as usual," (the indorsee in the latter case having knowledge of the charter,) all give the master a lien for the full freight per the charter against the indorsee. (59)

The clause "without prejudice to the charter-party" does not bind the holder of the bill of lading to pay freight according to such charter-party, but merely reserves the ship-owner's right against the charterer if the master signs bills of lading for a less rate than that in the charter. (60)

By full delivery of the goods without payment the lien is gone, but

if the contract be for payment at a time certain, which must occur whether before or after delivery, the lien never arises. (61)

Payment of freight ends the lien on the cargo for same, and anything accepted as payment, although in its nature conditional, such as a bill of exchange, has the same effect, unless there is an agreement to the contrary. (62)

But a bill of exchange taken for freight is only conditional payment unless accepted as complete satisfaction, although it ends the lien and suspends the right to sue until it is due. (63)

Where the owner, or the master if he is so authorized, prefers a bill of exchange when he might have had cash, delivery of the bill to him, is payment, although it is afterwards dishonored. (64)

When payment is to be by bill of exchange it is the master's duty to draw and present the bill for acceptance, and if he refuses to draw, an offer to accept is evidence of a good tender of the freight. (65)

Cash advanced on the freight under a contract to that effect between the parties cannot be recovered back, although it be afterwards lost on the voyage (66), but a mere loan, though agreed for in the charter-party, is not such an advance, and is not insurable and may be recovered back. (67)

Any advance by way of freight to the ship-owner retains the incidents of freight-risk and contingency as between the charterer and the underwriters. (68)

In the United States the rule is that where freight is advanced, but for reasons not chargeable against the merchant is not earned, it may be recovered back, unless there is an agreement to the contrary. (69)

Loss of goods acknowledged to have been received in the bill of lading, or damage to goods not covered by the excepted perils, cannot be pleaded in bar, or by way of set-off to an action for freight. (70)

On the 3rd October, McEwan chartered McLeod's vessel, the "Erie Belle," to carry salt from Goderich to Milwaukee for 75 cents a ton, the effect of the contract being that the vessel was to load and carry within a reasonable time. On the 11th October, McLeod tele-

graphed: "Erie Bell" cannot go; will you take Steam Barge as substitute; answer quick." Some subsequent correspondence took place, McEwen holding McLeod to his contract and McLeod agreeing to perform it. At this time McEwen could have got a vessel at \$1.00, but waited for McLeod's vessel which was loaded on the 25th November, when the master, fearing bad weather, refused to sail, and it was impossible to charter another vessel. McEwen, who had sold the salt in Milwaukee, sent part by rail, and paid his consignee the difference in price between salt which he had to buy and the contract price. The freight by rail was \$3.50 per ton, and 50 cents had to be paid for cartage, which would have been unnecessary had the salt gone by McLeod's vessel: Held, on appeal from the arbitrator, that McLeod was not entitled to hold McEwen to the damages which he might have recovered had he chartered a vessel at \$1.00 after the telegram of the 11th October, for that telegram, taken in connection with the subsequent correspondence did not shew an absolute refusal to perform the contract on which Mr. McEwen was bound to act, but that McEwen was entitled to recover the difference in price paid to his consignee, the difference in the freight, and the amount paid for cartage. (71)

## NOTES.

(1) *Benson v. Schnieder*, 1 Moore 21; *Hunter v. Fry*, 4 B. and Ald. 421; *Windle v. Barker* (in error) 25 L. J. (Q. B.) 349; *Cuthbert v. Cumming*, 24 L. J. (Ex.) 310. 11 Exch. 405.

(2) *MacLachlan* page 422.

(3) *The Southampton S. C. Co. v. Clarke*, L. R. 6, Ex. 53.

(4) *Lady James v. East India Co.*, M. T. 1789.

(5) *Fenwick v. Boyd*, 15 M. and W. 632; *Curling v. Long*, 1 B. and P. 634, 636; *Ripley v. Scaife*, 5 B. and C. 167; *Havelock v. Geddes*, 10 East 555.

(6) *Mackrell v. Simond & Hankey*, in K. B. Trin., T. 16, Geo. 3.

(7) *Miller v. Woodfall*, 8 E. and B. 493, 27 L. J. (Q. B.) 120; *Mitcheson v. Nicol*, 7 Exch. 929; *Mitchell v. Darthez*, 2 Bing. N. C. 555; *Gumm v. Tyrie*, 4 B. and S. 680, 33 L. J. (Q. B.) 97.

(8) *Moller v. Living*, 4 Taunt. 102; *Gibson v. Sturge*, 10 Exch. 622; *Coulthurst v. Sweet*, L. R. 1, C. P. 653; *Buckle v. Knoof*, L. R. 2, Exch. 125, 333; *Tully v. Terry*, L. R. 8, C. P. 679.

(9) *Tully v. Terry*, L. R. 8, C. P. 679.

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(18) *Curling v. Long*, 1 B. and P. 634; *Miller v. Woodfall*, 8 E. and B. 493; *Hunter v. Prinsep*, 10 East 378, 394; *Mashiter v. Buller*, 1 Camp. 84.

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(23) *Gibson v. Sturge*, 10 Exch. 622, 24 L. J. (Ex.) 121; *Dakin v. Oxley*, 33 L. J. (C. P.) 115, 119; *Jacobsen's Sea Laws*, Vol. 3, Chap. 2, P. 220.

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(25) *Byrne v. Pattinson*, in K. B. Trin. 37, Geo. 3; *Smith v. Wilson*, 8 East 437; *Gibbons v. Mendez*, 2 B. and Ald. 17; *Havlock v. Geddes*, 10 East 555.

(26) *Blanch v. Solly*, 1 B. Moore 531; *Muller v. Garnon*, 3 Taunt. 394; *Waugh v. Morris*, L. R. 8, Q. B. 202.

(27) *The Wilhelmina Eleonora*, Mohr. 3, C. Rob. 234; *The Louisa*, Higginbotham 1 Dod. 317; *Hunter v. Primsep*, 10 East 378; *Vierboom v. Chapman*, 13 M. and W. 230; *The Diana*, Rarke 5, C. Rob. Ad. 67; *The Vrouw Henrietta*, Ibid. 75 N.; *The Hoop*, Ibid. 75 N.; *The Vrouw Anna Catharina*, Mahta. 6 C. Rob., Ad. 269, 271; *The Fortuna Koedt*, Edw. Ad. 50.

(28) *The Hoffnung*, Rask. 6 C. Rob. Ad. 231; *The Martha*, Martin 3 C. Rob. Ad. 106 N.; *Baillie v. Mondigliani*, 1 Park Ins. C. 2, P. 116; *The Racehorse*, White 3, C. Rob. Ad. 101; *The Copenhagen Mening*, 1 C. Rob. Ad. 289; *The Friends Creighton* Edw. Ad. 246; *Luke v. Lyde*, 2 Burr. 882; *The Isabella Jacobina*, Sovergren 4 C. Rob. Ad. 77; *The Werldsborgaren*, Lagerholm 4 C. Rob. 17 S. P.; *The Fortuna Koedt*, Edw. 50; *The Atlas Kimbell*, 3 C. Rob. 304; *The Juno Beard*, 2 C. Rob. Ad. 116.

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(32) *Allen et al. v. Chisholm*, 33 Q. B. 237.

(33) *Griswold v. The New York Ins. Co.*, 1 Johns 205, 3 Johns 321.

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(35) *Moller v. Young* (in error) 25 L. J. (Q. B.) 94; *Sanders v. VanZeller*, 4 Q. B. 260, 296; *Kemp v. Clark*, 12 Q. B. 647; *Moorson v. Kymer*, 2 M. and Sel. 303; *Amos v. Temperley*, 8 M. and W. 798; *Ward v. Felton*, 1 East 507; *Tobin v. Crawford*, 5 M. and W. 235, 9 M. and W. 716.

(36) *Bell v. Kymer*, 3 Camp. 545; *Tobin v. Crawford*, 5 M. and W. 235, (in error) 9 M. and W. 716; *Smurthwaite v. Wilkins*, 11 C. B. N. S. 842.

(37) *Shipton v. Thornton*, 9 A. and E. 314; *Matthews v. Gibbs*, 30 L. J. (Q. B.) 55.

(38) *Luke v. Lyde*, 2 Burr. 882, 888; *Hickie v. Rodocanachi*, 28 L. J. (Ex.) 273, 277; *Shipton v. Thornton*, 9 A. and E. 314, 337.

(39) 3 Kent Com. 212; *Mumford v. Commercial Insurance Company*, 5 Johns 262.

(40) *Walsh v. Provan*, 8 Exch. 843; *Atkinson v. Cotesworth*, 3 B. and C. 647; *Hickie v. Rodocanachi*, 28 L. J. (Ex.) 273.

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(42) *Gardner v. Cazenove*, 1 H. and N. 423; *Willis v. Palmer*, 29 L. J. (C. P.) 194; *Hutchinson v. Wright*, 27 L. J. (Ch.) 834; *Ward v. Beck*, 13 C. B. N. S. 668, 32 L. J. (C. P.) 113.

(43) *Davidson v. Case*, 5 M. and Sel. 79, 82.

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(46) *Brown v. Tanner*, L. R. 3 Ch. 597; *Morrison v. Parsons*, 2 Taunt. 407; *Willis v. Palmer*, 29 L. J. (C. P.) 194; *The Edmond Lush*, Ad. 58; *Lindsay v. Gibbs*, 22 Beav. 522, 2 Jur. N. S. 1039 S. C.; *Wilson v. Wilson*, L. R. 14 Eq. 32.

(47) *Yates v. Mennell*, 2 B. Moore 297; *Yates v. Railston*, 2 B. Moore 297; *Tate v. Meek*, 2 B. Moore 278; *Small v. Moates*, 9 Bing. 579.

(48) *How v. Kirchner*, 11 Moore, P. C. 21; *Kirchner v. Venus*, 5 Jer. N. S. 395; *Blaker v. Dixon*, 2 B. & P. 211; *Andrew v. Moorehouse*, 5 Taunt. 435; *Osgood v. Groning*, 2 Camp. 466; *Winter v. Haldimand*, 2 B. & Ad. 649; *Thompson v. Small*, 1 C. B. 328; *Tindall v. Taylor*, 4 E. and B. 219, 24 L. J. (Q. B.) 12 S. C.

(49) *Phillips v. Rodie*, 15 East 547; *Birly v. Gladstone*, 3 M. and Sel. 205; *Faith v. East India Co.* 4 C. and Ald. 630; *Bishop v. Ware*, 3 Camp. 360.

(50) *Hutton v. Brag*, 7 Taunt 14; *Small v. Moates*, 9 Bing. 579.

(51) *Foster v. Colley*, 3 H. and N. 705, 28 L. J. (Ex.) 81 S. C.; *Lucas v. Nockells* (in error), 4 Bing. 729; *Alsager v. St. K's. Dock Co.* 14 M. and W. 794.

(52) *Foster v. Colby*, 28 L. J. (Ex.) 81; *Gilkison v. Middleton*, 2 C. B. N. S. 134; *Kirchner v. Venus*, P. C. 5 Jur. N. S. 395; *McLean v. Fleming*, L. R. 2 Ho. of Lds. (Scot.) 128; *Small v. Moates*, 9 Bing. 574; *Pearson v. Goschen*, 17 C. B. N. S. 352; *Carr v. Gray*, L. R. 6 Q. B. 522; *Tate v. Meek*, 2 B. Moore, 378; *Yates v. Railston*, 2 B. Moore, 294, 297.

(53) *Kirchner v. Venus*, 12 Moo. P. C. C. 360; *Campion v. Colvin*, 3 Bing. N. C. 26; *Kay on M. and S.* 318.

(54) *Kirchner v. Venus*, 5 Jur. N. S. 395.

(55) *Hanson v. Meyer*, 6 East 614; *Moller v. Young* 5 E. and B. 71, (in error) 5 E. and B. 755; *Bernal v. Pine*, 1 Gale 17.

(56) *Tate v. Meek*, 2 B. Moore 278; *Yates v. Railston*, 2 B. Moore 294, 297; *Campion v. Colvin*, 3 Bing. N. C. 17; *Gledstaney v. Allen*, 12 C. B. 202; *Small v. Moates*, 9 Bing. 574; *Faith v. The East India Co.* 4 B. and Ald. 230; *Smith v. Sieveking*, 24 L. J. (Q. B.) 257, in error 5 E. and B. 589.

(57) *Foster v. Colby*, 28 L. J. (Ex.) 81, 3 H. and N. 705; *Mitchell v. Sealie*, 4 Camp. 298; *Gilkison v. Middleton*, 2 C. B. N. S. 134; *Neish v. Graham*, 8 E. and B. 505; *Howard v. Tucker*, 1 B. and Ad. 712; *Brown v. North*, 8 Exch. 1.

(58) Tate v. Meek, 2 B. Moore 278; Small v. Montes, 9 Bing. 574; Yates v. Railton, 2 B. Moore 204; Yates v. Mennell, 2 B. Moore 207; Gledstanes v. Allen, 12 C. B. 202; Foster v. Colby, 28 L. J. (Ex.) 81; Shand v. Sanderson, 28 L. J. (Ex.) 278; Brown v. North, 8 Exch. 1.

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(63) Brown v. Kewley, 2 B. and P. 518; Mallard v. Duke of Argyle, 6 M. and Gr. 40; Kearslake v. Morgan, 5 T. R. 513; Marsh v. Pedder, 4 Camp. 257; Belshaw v. Bush, 11 C. B. 191; Tapley v. Martens, 8 T. R. 437.

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(65) Luard v. Butcher, 2 C. and K. 29.

(66) Saunders v. Drew, 3 B. and Ald. 445; Hicks v. Shield, 7 E. and B. 633, 26 L. J. (Q. B.) 205; Byrne v. Schiller, L. R. 6 Ex. 20, 319; Grieves v. W. T. and P. S. Co. 22 L. T. N. S. 615; Watson v. Shankland, 2 Ho. of Lds. (Sc.) 304; De Sylva v. Kendall, 4 M. and Sel. 37, 43.

(67) Manfields v. Maitland, 4 B. and Ald. 582; Jackson v. Isaacson, 27 L. J. 392, 3 H. and N. 605; Hicks v. Shield, 7 E. and B. 633.

(68) Hicks v. Shield, 7 E. and B. 633.

(69) Griggs v. Austin, 3 Pick. 20; Watson v. Duykinck, 3 Johns 335; Pitman v. Hooper, 3 Sumner 50, 66; 1 Parsons Shipping 222; 3 Kent Com. 266; Abbott Shipping (Amer. Ed.) 408, note; Mashiter v. Buller, 1 Camp. 84.

(70) Seeger v. Duthie, 29 L. J. (C. P.) 253; Dresser v. Meyer, 16 C. B. N. S. 646; The Norway Br. and Lush. Ad. 377, 404; The Don Francisco, Lush. Ad. 468; Dakin v. Osley, 33 L. J. (C. P.) 115; see MacLachlan on Shipping 342, 487.

(71) McEwan v. McLeod, 46 Q. B. 235.

## CHAPTER II.

## PART I—MASTERS. PART II—SEAMEN. PART III—PASSENGERS.

## PART I—MASTERS.

The master, or as he is usually called on the lakes "Captain," is charged with the safety of the ship and cargo, and of the life and health of all on board. He is required to conduct the navigation with skill, and to act in his command with justice, temperance and consideration, and is expected to act with prudence and judgment in all the affairs of the owners and charterers.

The owners are bound by every lawful contract made by him regarding the usual employment of the ship. The master is also bound by every such contract (1). The ship and freight are also bound to the performance of a charter.

The master is always personally bound by a contract for repairs and necessities to the ship made by himself, unless he excepts himself in express terms in the contract. (2)

The master has an implied authority to bind the owners but not the vessel for all that is necessary to conduct the navigation of the ship to a proper destination, but this authority extends only to such things as a prudent man would deem reasonably necessary and proper to be done or supplied for the purposes of the navigation of the vessel. (3)

Where a master makes a particular engagement or warranty for the carriage of goods according to the usual employment of the ship, the owners are bound by it although made without their knowledge. (4)

Where however, the owners have specially chartered the ship, the

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master cannot by his general authority as master, break such contract and change it for another with the same parties (4). The master cannot contract to carry goods, the freight for which will be payable to third parties or free of freight. (5)

X It is the duty of the master to devote his full time and attention to advancing the interests of the owners, and the law allows of no custom, practice, or contract, which would give him an interest against his duty. (6)

It is his duty first to watch for the safety of the ship in port and at sea, to repair it when necessary if he cannot communicate with the owners in a reasonable time, to avoid injury from loading or unloading in improper places from improper stowage, over loading &c., and both duty and honour engage both him and the crew to defend the ship to their utmost from the Queen's enemies, pirates, or mutineers. (7)

It is always an imperative duty of the master in case of injury to the ship to send word to the owners forthwith of the nature of the damage even, although, it is not advisable for him to wait until he hears from them. (8)

He is bound to see that nothing which could be avoided is done or happens whereby the liability of the insurance companies may be discharged.

The owners are entitled to the log and also a clear and explicit account from the master of his receipts and disbursements. (9)

In all lawful matters relating to the navigation of the ship and the preservation of order, the master's power over the crew is despotic and he is responsible for the use of it only to the courts of the country. (10)

In case any of the crew are disobedient or disorderly, he may lawfully correct them in a reasonable manner. (11)

But the punishment must be applied with due moderation and in all cases which will admit of delay due inquiry should precede the act of punishment. (11)

It is customary in such cases and advisable for the master to consult with his officers, but this is not obligatory on him.

In case of punishment the whole affair should be mentioned in the log, and unless the master can show that there was sufficient cause for punishment and also that the punishment itself was reasonable and moderate, the mariner may recover damages for the injury received. (12)

It is the duty of the master to provision the ship with necessaries sufficient in quantity and of proper quality. (13)

The master has a lien on the vessel both for his wages and disbursement, provided the one be earned on board and the other made on account, applied to the use of and actually required by the necessities of the ship of which he was master. (14)

Master has authority in a foreign port to settle accounts for freight, demurrage, delay, and all matters of that kind. (15)

A master has not so much authority in the home port as in a foreign port, as in the former his owners generally see to all important transactions for the ship such as chartering &c., but even in a foreign port a master can only bind his owners in things relating to the ordinary employment of the vessel. (16)

Vessels going through canals should observe the rules regulating such canals. (17)

The master of the *Idyl-Wyld* was engaged for the season for \$1,000. The vessel was burned in September, held that as the vessel was destroyed without fault of the owner he was only liable for the time the master performed his duties. (18)

A master who has been habitually drunk cannot maintain an action for his wages. (19)

A deviation for the purpose of saving life is justifiable, but not so for the mere purpose of saving property. (20)

When a master receives credible information that if he keeps on in the direct course of his voyage, his ship will be in great danger from pirates, ice burghs or other dangers of navigation, he is justified

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in deviating from the direct course and taking any step that a prudent man would take under the circumstances. (21)

Since the Merchants' Shipping Act of 1854, a master has now the same rights, liens and remedies for his wages which an ordinary seaman has, and he is entitled to his wages if he performed the master's duties, although while doing so he did not sleep on board and although part of such duties were performed ashore. He is also entitled to double pay not exceeding 10 days for non-payment of his wages. (22)

A master who is part owner, or mortgagee of a ship, has the same rights for his wages as if such relationship did not exist. (23)

A master may insure his commission, wages or any other interest which he may have in the ship or voyage. (24)

Masters' and seamen's liens for wages come in ahead of all claims except those for salvage and for damages by collision. (25)

A master's lien for wages, even where he is a part owner, is ahead of a mortgage on the vessel, except in cases where he has joined in the mortgage. (26)

A master is entitled to be repaid and has a lien on the vessel for all advances, expenses and cash outlay made as such master, on account of or for the benefit of the ship, provided they have been properly incurred, were actually necessary and have been really paid. (27)

A master (as well as the owners) is always personally responsible on all contracts made by him for the usual employment, repairs or supplies of the ship, except in cases where the master by express agreements charges only the owner's credit, or unless the circumstances show that the credit was really given to the owners alone. (28)

Losses occasioned by gross neglect or misconduct of seamen will be deducted from their wages if a liquidated amount. (29)

A master must be well enough acquainted with the usual course of navigation to take the vessel safely through her ordinary perils. (30)

There must be some one on board qualified to take the master's place and duties in case of necessity or otherwise the ship is not seaworthy. (31)

It is a master's duty to see that his nautical instruments are in good order, his compasses adjusted and alike, his day and night glasses cleaned and in good order, his log and lead lines in working order and that he has correct charts of the voyage on board. (32)

The master must see that the ship has the requisite number of boats and that they are up to the standard and in good servicable order.

In case there are more than one owner of a ship, those who have the largest interest in her have the right to appoint the master. (33)

In case of change of owners the old master keeps his position and can bind the new owners the same as the old until he is notified of the change and that his appointment is at an end. (34)

In case of the death, insanity, desertion or clear incapacity of the master out of port the first mate succeeds to the command and all the duties and responsibilities of the master and he is in such case entitled to the masters wages and has power to appoint other officers. (35)

By gross misconduct, constant drunkenness or entire neglect of duty by a master, and also gross incapacity a master will forfeit all wages which were not actually due at the time of such occurrence, it is otherwise where there is a mere error of judgment on the part of the master. (36)

Losses occasioned by the master's negligence or fault will be deducted from his wages. (37)

Where goods are short on account of neglect on the part of the master or mate, the amount of the loss will be taken from their wages. (38)

It is the master's duty to give all his time to his owner's interests, and he cannot trade on his own account or work for another employer at the same time. If he earns anything by above means his owners are entitled to same. (39)

On leaving a ship a master shall deliver to his successor all the papers, books, &c., relating to the ship's crew or cargo in his possession, and the new master must make an entry in the log of all such received by him.

It is the master's duty to obtain freight for his ship upon the best possible terms. (40)

In case of accident or otherwise to the ship, it is the master's duty to stay by her as long as possible and not to leave until all hope is gone. (41)

The owners are not bound by illegal acts of the master. (42)

A master cannot bind his owners by such contracts as are by law required to be under seal, unless his authority to do so is under seal. (43)

The master before sailing must see that the ship is seaworthy for the voyage she is about to undertake. (44)

Where a vessel turns out unseaworthy it is no excuse that the master was ignorant of same, having been deceived by the ship-builder. (45)

A master is ordinarily entrusted even in home port with shipping the officers and crew, the ordinary outfitting repairs and other preparation of the ship, loading and unloading cargo, signing bills of lading for goods actually received. (46)

A master of a purely passenger vessel has no presumed authority to take goods on board for freight. (47)

Third parties must be notified of a change of master, as if not the owners will be responsible if they contract with the master regarding the ordinary employment of the vessel under the idea that he is still the master. (48)

A master is not bound to delay his voyage for the purpose of putting the cargo in a fit condition to be carried on, if such delay would be against the interests of the ship owner. As for example, where a vessel ships a heavy sea which is liable to damage the cargo, but the ship is still in a fit condition to proceed, the master is not bound

to go into the nearest port to tranship and dry the cargo. (49)

Where a vessel is in a way port and the cargo is not in a condition to be carried on, the master should do the best that can be done with it, and even wait until he gets it in fair order to proceed if the delay so caused will not be unreasonable. (49)

A master is not bound to repair goods on the way but if necessary he should open the packages for the purpose of ventilation, and should if possible unpack and dry goods that are suffering damage from being wet provided this will not delay his voyage an unreasonable time. (50)

Where a master is ordered by a harbor master, or other person in authority, to moor in a certain place, or way, or to a certain buoy, he should do so, but should be prepared to let go his anchor or take further precautions in case the ones ordered may not be sufficient. (51)

A master has authority to throw over part or even the whole of a cargo in cases of great danger, and he is to choose what and how much shall go overboard.

But the mere purpose of effecting better stowage or greater speed will not justify him in doing so. (52)

It is the duty of a master in case great danger demands it to make a sacrifice of part of the cargo, outfit or as the case may require to save the remainder.

In case of wreck the master, if possible, should endeavor to save the most valuable goods first. (53)

Where a voyage is defeated by fault in the cargo the master must act as a prudent and careful man would think best for the interest of all and when he takes measures to preserve the cargo and return same to its owner he is entitled to return freight and expenses. (54)

It is a master's duty to see that his ship is properly ballasted, and stone or iron ballast should always be taken in preference to sand, but where a master is obliged to take sand ballast he should use every possible means to prevent its getting into the pumps. (55)

A master should keep a cargo book in which the mate or officer checking the goods as received should enter an accurate description of the goods shipped, the number of packages, the marks, the contents, and the names of the shippers and consignees, and also anything unusual about them. (56)

A ship master who lands cargo subject to his lien is liable to an action for damages, where he gives a stop-order for more than his lien, provided the cargo is unduly detained in consequence. (57)

The owners are liable for the embezzlement of the master, except in cases where the goods were given personally to the master to be taken without freight. (58)

The master cannot bind his owner by an agreement to carry freight free. (59)

Where the charterer has agreed to appoint a stevedore to load, but has not done so, it is the master's duty still to do so. (60)

The term "F. O. B." free on board, means delivery on board at the consignors expense free from all conditions charges and claims. (61)

Where goods are warehoused by the master on request or because of the consignee's absence or default, the warehouseman is not liable for loss of goods by fire. (62)

Where a master was engaged, "salary to be at after the rate of so much per annum," and the following was inserted: "Should owners require captain to leave the ship abroad, his wages to cease on the day he is required to give up the command," it was held that he could not be dismissed without a reasonable notice. (63)

Where a master lands his cargo at an intermediate port instead of carrying it on to its proper port of delivery, although he might be prevented from doing the latter for a long time on account of ice he is not entitled to his full freight, nor is entitled to freight pro rata unless there is evidence of a new contract to that effect. (64)

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#### NOTES.

(1) *Gibbs v. Charlton*, 26 L. J. (Ex.) 321; *Molloy*, Bk. 2, Ch. 2, S. 14; *Myers v. Willis*, 17 C. B. 77, 18 C. B. 886.

(2) *Morse v. Shue*, 1 Vent. 190, 238; *Blakie v. Stenbridge*, 28 L. J. (C. P.) 329; *Thompson v. Finder*, 4 C. and P. 158; *Rich v. Coe*, 2 Comp. 630.

(3) *Beldon v. Campbell*, 6 Exch. 886.

(4) *Rinquist v. Diehell*, Guildhall Sit. p. Mich. Ter. 40, Geo. 3.

(4) *Burgon v. Sharpe*, 2 Camp. 529; *Sickens v. Irving*, 20 L. J. (C. P.) 25.

(5) *Reynolds v. Jex*, 34 L. J. (Q. B.) 251; *Dewell v. Moxon*, 1 Taunt. 391; *Harder v. Brotherton*, 4 Camp. 254.

(6) *Thompson v. Haycock*, 1 Camp. 526; *Gardner v. McCutcheon*, 4 Beav. 534; *Shallcross v. Oldham*, 2 J. and H. 609; *Diplock v. Blackburn*, 3 Camp. 43; *Best v. Sanders*, M. and M. 208; *Charleton v. Cotesworth*, R. and M. 175; *Scott v. Miller*, 3 Bing. M. C. 811.

(7) *Redman v. Wilson*, 14 M. and W. 476.

(8) *The Margaret Mitchell*, *Jamieson* 4 Jur., N. S. 1103; *Wilkinson v. Wilson*, 8 Moore P. C. 459; *Gladstone v. King*, 1 M. and Sel. 35.

(9) *Topham v. Braddick*, 1 Taunt. 572; *White v. Lady Lincoln*, 8 Ves. 309.

(10) *Reg v. Leggett*, 8 C. and P. 191, 194.

(11) *Watson v. Christie*, 2 B. and P. 224; *The Agincourt Mahon*, 1 Hagg. Ad. 271.

(12) *Aitkin v. Bedwell*, M. and M. 68; *Lamb v. Burnett*, 1 Cr. and J. 291; *Murray v. Moutrie*, 6 C. and P. 471; *The Lowther Castle*, *Baker*, 1 Hagg. Ad. 384.

(13) *Couch v. Steel*, 3 E. and B. 402, 23 L. J. (Q. B.) 121; *Young v. Fewson*, 8 C. and P. 55; 17 and 18 Vict., C. 104, S. 223, Imp.

(14) *The Mary Ann*, L. R. 1, Ad. 8.

(15) *Alexander v. Dowle*, 1 H. and N. 152; *Kay*, M. and S. 474.

(16) *Storey on Agency*, 119; *Grant v. Norway*, 10 C. B. 665.

(17) *Jacques et al. v. Nicholl*, 25 Q. B. 402.

(18) *Ellis v. The Midland Rw. Co.*, 7 A. R. 464.

(19) *The MacLeod*, 5 P. D. 254, 50 L. J. P. 6, 29 W. R. 340 D.

(20) *Scaramanga v. Stamp*, 4 C. P. D. 316; 48 L. J., C. P. 478; affirmed 28 W. R. 691, C. A.; *Wingate v. Foster*, 3 Q. B. D. 582; 47 L. J., Q. B. 525; 38 L. T. 737; 26 W. R. 650 C. A.; *Stuart v. B. and A. S. Nav. Co.*, 32 L. T. 257, Ex.

(21) *Duncan v. Koster*, 8 Moore, P. C. C., N. S. 411; *The Teutonia*, 4 L. R., P. C. 171.

(22) *The Chieftain*, B. and L. 104; *The Princess Helena*, *Lush* 190; *Kay*, M. and S. 1132.

(23) *The Repulse*, 2 W. Rob. 399; *The Albion*, 27 L. T., N. S. 723; *Kay*, M. and S. 1132.

(24) *Kay*, M. and S. 1133; *King v. Glover*, 2 B. and P. N. R. 206.



(25) *The Panthea*, 25 L. T., N. S. 389; *The Salasia*, 32 L. J., Adm. 41; Kay, M. and S. 1137.

(26) *The Hope*, 28 L. T. N. S. 200. *The Chieftain*, B. and L. 212; *The Mary Ann*, L. R. 1 Adm. 8; *The Feronia*, L. R. 2, Adm. 65; *The Jenny Lind*, L. R. 3, Adm. 532; Kay, M. and S. 1137.

(27) *Storey on Agency*, 336; Kay, M. and S. 1131.

(28) *Storey on Agency*, 204; 3 Kent Com., Lect. 46, P. 161; *MacLachlan*, 121, 128; *Parsons Shipping II*, 12; Kay, M. and S. 1148, 1149.

(29) *Williams and Bruce*, 169.

(30) *Phillips on Ins.* 707.

(31) *Clifford v. Hunter*, 1 Mood. and M. 103.

(32) *Lee's Manual*, 68.

(33) *Maude and Pollock*, P. 87.

(34) *The Mercantile Bank v. Gladstone*, L. R. 3, Ex. 238, 233.

(35) *The Tecumseh*, 3 W. Rob. 146; *The Favorite*, 2 C. Rob. 238; *Hanson v. Royden*, L. R. 3, C. P. 49.

(36) *The Atlantic*, Lush. 506; *The Camilla*, Swob. 314; *Maude and Pollock*, 88.

(37) *Maude and Pollock*, 88; *Williams and Bruce*, 168.

(38) *Williams and Bruce*, 169.

(39) *Gardner v. McCutcheon*, 4 Beav. 542; *Diplock v. Blackburn*, 3 Camp. 43; *Thompson v. Havelock*, 1 Camp. 527.

(40) *Storey on Agency*, 334 a.

(41) *Parsons on Shipping*, II, 2.

(42) *Wilson v. Rankin*, 34 L. J. Q. B. 67.

(43) *Priestly v. Fernic*, 34 L. J., Ex. 176; *Willis v. Palmer*, 29 L. J., C. P. 194.

(44) *Parsons on Shipping*, II, p. 1.

(45) *Holt on Shipping*, 383; *Sharp v. Grey*, 9 Bing. 457.

(46) *Storey on Agency*, 119; *Grant v. Norway*, 10 C. B. 665; Kay, M. and S. 476.

(47) *Storey on Agency*, 121; K. M. and S. 476.

(48) *Sanderman v. Scurr*, L. R. 2, Q. B. 97; Kay, M. and S. 474.

(49) *Notara v. Henderson*, L. R. 7, Q. B. 237, Exch.; 2 *Parsons on Shipping*, 22; *Lynx v. King*, 12 Misso. 272 (Am.); *Soule v. Rodocanachi*, 1 Newb. Adm. 504 (Am.)

(50) *Propellor Niagara v. Cordes*, 21 How. 7 (Am.); *Blocker v. Wittenburg*, 12 La. Am. 410 (Am.); *Parsons on Shipping*, II, 22; *Bird v. Cromwell*, 1 Misso. 81 (Am.)

- (51) *The William Lindsay*, 20 L. T., N. S. 355.
- (52) *The Gratitude*, 3 C. Rob. 258.
- (53) *Notara v. Henderson*, L. R. 7, Q. B. 233 Exch.
- (54) *The Cargo Ex Argos*, L. R. 4, Adm. 28; *Christy v. Row*, 1 Taunt. 315.
- (55) *Lee's Manual*, p. 27.
- (56) *Lee's Manual*, 29.
- (57) *Mierbrodt v. Fitzsimon*, L. R. 6, P. C. 300.
- (58) *Boucher v. Lawson*, cases *temp.* Hard. 85, 194; *Middleton v. Fowler*, Salk. 282.
- (59) *Grant v. Norway*, 28 L. J., C. P. 93.
- (60) *Anglo-African Co. v. Lamzed*, 1 L. R., C. P. 226; *Hayn v. Culliford*, 3 C. P. D. 410.
- (61) *Brown v. Hare*, 3 H. and N. 484, 4 H. and N. 822; *Conturier Hastie*, 22 L. J., Ex. 209, 5 Ho. of L. 673; see also *Fourds Mer. Ship*, 362.
- (62) *Fourds Mer. Ship*, 304.
- (63) *Creen v. Wright*, 1 C. P. D. 501.
- (64) *Metcalf v. The Britannia Iron Works Co.*, 1 Q. B. D. 613.

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## CHAPTER II.

## PART II.

## SEAMEN.

The crew are bound to obey the master's commands in all lawful matters relating to the navigation of the ship and the preservation of good order. (1)

A seaman who has faithfully performed his service on board during the time of service is entitled to receive the whole of the wages agreed on, and that amount is not to be lessened in consequence of the seaman's inability to perform the stipulated service, if such inability has proceeded from any hurt received in the performance of his duty or from natural sickness happening to him in the course of the voyage, but where the illness which prevents him from working is the effect of his own wilful act or default, he is not entitled to wages during the period of such incapacity. (2)

A seaman who has misrepresented his competency or health at the time of entering is liable to be discharged and to be paid, if at all, on a lower scale than agreed on. (3)

If a master discharges a seaman from the ship before his time is up, the seaman will be entitled to wages for the time on board and damages for the remainder of the stipulated time, deducting such sum as he may have earned in the meantime in another vessel. (4)

It is a seaman's duty in case of wrongful dismissal before the end of the agreed on service to make reasonable efforts to procure service in another vessel.

Seamen's wages must be paid within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever happens first. The former period however has only reference to where the seaman is hired for a particular voyage.

However in all cases the seaman shall at the time of his discharge

be entitled to be paid on account, a sum equal to one-fourth of the balance due him. (5)

It is thought, however, that above rules only apply to sea-going ships and that inland mariners are entitled to their full pay immediately on discharge.

Every master or owner who neglects or refuses to make payment as above without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten days, during which payment is delayed, and such sum shall be recoverable as wages. (5)

Payment of a seaman's wages to him is good, notwithstanding any previous sale or assignment thereof, or any attachment, incumbrance, or arrestment thereon. (6)

No seaman shall by any agreement he may make forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages, to which he would otherwise have been entitled, and every stipulation in any agreement inconsistent with any provision of "The Merchants' Shipping Act," and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly void. (7)

The seaman is presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court. (8)

Where seamen enter for a certain voyage and the master deviates from that voyage and extends it, the seamen are not bound unless by a new agreement made thereto. (9)

Where a seaman has been wrongfully discharged at a port different from that at which his agreement was to have terminated, he is entitled to his expenses to the port of departure. (10)

A master has authority to discharge a seaman during the voyage for unfitness or inability to proceed, the seaman being entitled to wages up to his discharge. (11)

If a seaman dies in the course of a voyage wages are due up to the time of his death. (12)

Where there is a change of owners during the voyage, the seaman's hiring is at an end under the original articles, but the original owner or master is liable for any damages the seaman may sustain by such change.

If new articles are signed his rights are under them, but if not and the seaman continues to serve on board, it is evidence of an agreement on the old terms.

A seaman on change of owners has a right to leave, and is entitled to wages up to the time of such leaving and also to damages. (13)

When the voyage is interrupted by the wreck or loss of the ship, the seaman is entitled to wages up to the end of his work. (14)

Where the damage to the ship, though short of a total wreck, is of so serious a nature that great delay is necessary to put her in a state of repair, the master is authorized under such circumstances to discharge the crew although they were shipped for the voyage, but in such a case he must, besides paying them up to the date of discharge, allow them enough to enable them to reach the port of departure. (15)

If a ship is arrested during a voyage for fraud or misconduct, or illegality of purpose on the part of the owners or master, so that the voyage is lost, the seamen, not being in fault, are entitled, if hired by the month, to wages up to the time of seizure and any expenses which they are necessarily put to in consequence. If hired for the voyage they are entitled to damages as well. (16)

Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his side justifying such discharge and without his consent, is entitled, in addition to any wages he may have earned, to compensation for the damage caused to him, not exceeding one month's wages. (17)

A seamen is not entitled to wages for any period during which he unlawfully refuses or neglects to work when required, nor for any period during which he is unable to perform his duty by illness caused by his own wilful act or default. (18)

A seaman by desertion from the ship incurs a forfeiture of all his

wages, even of such wages as have been earned and are payable previous to desertion. (19)

Although the quitting be without leave or even in defiance of prohibition, if the seaman intends to return, and does return there is no desertion. (20)

Desertion is the abandonment of a ship by any seaman lawfully engaged, before the due ending of his engagement without just cause and with the intention of not returning to the vessel. (21)

Mere leave to go on shore will never justify the seaman in not returning to the ship and even express permission to quit entirely, though given by the person in chief command will be no justification if countermanded by superior authority in time to prevent the departure. (22)

It is not desertion where the seaman leaves the ship because she has so few hands, that it would be a risk of life to go to sea without getting more hands. (23)

A sailor who leaves a vessel because she is not in a fit state to go to sea, or because the provisions are bad or short, or because of the cruel and harsh treatment of the master is not a deserter. (24)

So also a seaman who leaves a ship because she is about to deviate from the course in the articles is not a deserter. This of course does not refer to cases where a ship is driven out of her course by stress of weather, or where in consequence of delay from the perils of the sea the crew are put on short allowance. (25)

An engagement for a voyage lasts until the cargo is discharged. (26)

For quitting the ship without leave after her arrival at her destination and before she is placed in security, the seaman is liable to forfeit a sum, not over one months' wages. (27)

The wages of a seaman are forfeited where his misconduct has been such as to render the discharge of the seaman absolutely necessary for the safety of the ship and the due preservation of discipline. (28)

In the case of a mate whose position on board imposes on him

duties of a higher order than are expected from the seamen, habitual drunkenness, neglect of duties and disobedience are offences fully sufficient to justify the forfeiture of his wages, and such negligence need not be wilful as he is bound by entering not to be negligent. (29)

Occasional drunkenness, however, even by the master or mate does not necessitate a forfeiture of wages. (30)

It requires much more cause to deprive a seaman of his right to wages than an officer, as his responsibility is not so great, habitual drunkenness, gross disobedience of orders or insubordination are sufficient but the court will lay much greater weight on acts of the above nature if they occur outside and not in port. (31)

The master may waive the right to forfeiture of the seaman's wages by taking him back to work again under the old contract. (32)

The master should as soon as possible after any of the occurrences as above mentioned have taken place enter same in the official log book, dated the day of the entry and signed by the master and by the mate or one of the crew. This entry must be read over to, or a copy given to the offender if still on board, and his answer if any also entered, and the punishment, if any inflicted, should be entered. (33)

In case there is a change of owners in the course of a voyage the master is the agent of the new owner until there be time to make other arrangements, and the new owner is responsible to the seamen from the time of the change. (34)

Actions for wages must be brought within six years unless the claimant be under age, or alumnate imprisoned, in which cases it may be brought within six years after the disability is removed. (35)

A seaman has a right to damages for injuries sustained by him from the wilful or negligent conduct of the master or owners, or in not providing proper or sufficient food, but when the voyage has been unduly lengthened by events which the master could not provide against or control the right does not arise. (36)

Injury received in the service of a vessel gives a sailor no right as against the owner, except where it is through the negligence of the

owner in providing a proper equipment or crew or otherwise. (37)

The owner is not liable for injury occasioned to a seaman by the wilful act of a fellow servant. (38)

A certain amount of space is to be provided for each seaman in the proper place, which space is to be kept free from sea and weather and bad odors and also is to be securely constructed, well lighted and ventilated. (39)

A seaman who receives damage on account of the ship he is sailing in turning out to be unseaworthy has no remedy. (40)

In a wages suit the court always takes for granted the services and good conduct of the seamen until the contrary is proved. (41)

Disobedience on the part of the seamen to lawful commands is an offense of the gravest nature, and harsh tones or manner on the master's part in the exercise of his authority will not justify or excuse disobedience. (42)

Seamen are bound to devote the whole of their time and energies in the service of the ship, and a promise by a master to pay a seaman extra wages if he performs his duties is void. (43)

A master's agreement with the seamen shipped on his vessel is binding on the owners. (44)

The word crew means all the persons employed aboard a ship except the master. (45)

It is the duty of a master to engage the crew, but in America the master as a general rule ships the first and perhaps the second mate and the first mate ships the balance.

The master should always see that Articles are used in shipping the crew, as if not the master is liable to a penalty for the neglect and the agreement with the seamen will be taken in favor of the seamen but cannot be used against them. (46)

A mate must be guilty of great disobedience, gross negligence or clear want of skill to justify a master in discharging him. (47)

Words of indefinite meaning in the ship's articles will be read in



favor of the seamen. (48)

A seaman's wages begin when he commences work, or when he goes on board, or at the time mentioned in the agreement, which ever first happens. (49)

Wages due or accruing due to any seaman cannot be attached or arrested by any court, and all payments to a seaman of his wages are good even where he has previously sold or assigned them, and any such sale or assignment is not binding on the sailor. (50)

Where an insured ship is lost and the owner becomes bankrupt the seamen are entitled to be paid in full out of the insurance money. (51)

Where the seamen misbehave themselves and leave, but the master had used language which might have lead them to believe they were discharged it is not desertion. (52)

A seaman is not obliged to take proceedings to get his wages at the port where he leaves the vessel or where the vessel belongs, but may proceed at any port.

Seamen who have not been paid their wages should always place their case in the hands of a Proctor as marine lawyers are called in Canada.

#### NOTES.

(1) *Watson v. Christie*, 2 B. and P. 224; *The Agincourt Mahon*, 1 Hagg. Ad. 271; see *MacLachlan*, Page 193, 2nd Edn.

(2) *Chandler v. Grieves*, 2 H. Bl. 608, note (a); *Paul v. Eden*, K. B. E. T. 25, Geo. 3; *Williams v. The Brig Hope*, 1 Peter's Ad. Rep. 138; *Shakerly v. Pedrick*, Crable 63; 17 and 18 Vict., C. 104, S. 185, Imp.; 30 and 31 Vict. C. 124, S. 8, Imp.; 3 Kent's Com. 186.

(3) 3 Kent Com. 186; *Atkins v. Burrows*, 1 Peter's Ad. 247; *Mitchell v. The Origimbo*, 1 Peter's Ad. 250; *Sherwood v. McIntosh*, Ware 109; 30 and 31 Vict., 124, S. 8, Imp.

(4) 3 Kent Com. 187; *Abbott Ship. (Am.)* 620; *Kean v. The Gloucester*, 2 Dallas 36 (U. S.); *The Elizabeth, Gull*, 3 Dods. Ad. 405; *The Beaver, Grierson* 3 C. Rob. Ad. 92; *Robinet v. The Exeter*, 2 C. Rob. Ad. 261.

(5) 17 and 18 Vict., Imp., C. 104, S. 187.

(6) 17 and 18 Vict., Imp., C. 104, S. 233.

(7) 17 and 18 Vict., Imp., C. 104, S. 182.

(8) 17 and 18 Viet., Imp., C. 104, S. 158.

(9) *The Minerva Bell*, 1 Hagg. Ad. 362; *The Elizabeth*, 2 Dods. 408.

(10) *R. Kent Com.* 187; *Hoyt v. Mildfire*, 3 Johns. 518; *The Elizabeth Gull*, 2 Dods. Ad. 405; *Abbott (Am.)* 620; *Hochster v. DeLatour*, 22 L. J. (Q. B.) 455.

(11) 17 and 18 Viet., C. 104, SS. 185, 200, Imp.; *Button v. Thompson*, L. R. 4, C. P. 330.

(12) *Armstrong v. Smith*, 1 B. and P., N. R. 299; *Cutter v. Powell*, 6 T. R. 320, 324; *Beale v. Thompson*, 3 B. and P. 405, 427; *Natterstrom v. The Hazard*, Bee's Rep. 441 (Am.); *Carey v. The Kitty*, Bee. 255.

(13) *Robins v. Power*, 27 L. J. (C. P.) 257.

(14) 17 and 18 Viet., C. 104 (Imp.), S. 185; *The Reliance, Green*, 2 W. Robb. 122; *The Neptune, Clark*, 1 Hagg. Ad. 227.

(15) *Robinet v. The Exeter*, 2 C. Rob. Ad. 264; *The Elizabeth Gull*, 2 Dods. Ad. 405.

(16) 3 Kent Com. 188; *Molloy*, Bk. 2, C. 3, S. 7; *The Malta, Young* 2 Hagg. Ad. 162.

(17) 17 and 18 Viet., C. 104, S. 167, Imp.

(18) 17 and 18 Viet., C. 104, S. 180, Imp.; 30 and 31 Viet., C. 124, S. 8, Imp.

(19) *The Pearl, Denton*, 5 C. Rob. 224; *The Baltic Merchant, Smith Ed.* Ad. 86; *The Westmoreland, Brigstock* 1 W. Rob. Ad. 216; *The Blake, Hadden* 1 W. Rob. Ad. 87.

(20) *Sigard v. Roberts*, 3 Esp. 71; *The Ealing Grove, Falconer* 2 Hagg. Ad. 15; *The Two Sisters, Davison*, 2 W. Rob. Ad. 125; *The Westmoreland, Brigstock*, 1 W. Rob. Ad. 216; *The Agincourt, Mahon*, 1 Hagg. Ad. 281; *Button v. Thompson*, L. R. 4, C. P. 330.

(21) *The Westmoreland, Brigstock*, 1 W. Rob. Ad. 216, 221; *The Two Sisters, Davison*, 2 W. Rob. Ad. 125.

(22) *The Bulwer, Brown*, 1 Hagg. Ad. 163; *The Pearl, Denton*, 5 C. Rob. Ad. 224; *The Jupiter, Crosbie*, 2 Hagg. Ad. 221.

(23) *Hartley v. Pensonby*, 7 E. and B. 872; *The Araminta*, 18 Jur. 793.

(24) 17 and 18 Viet., C. 104, S. 221, Imp.; *The Castilia Stewart*, 1 Hagg. Ad. 59; *Edward v. Trevellick*, 4 E. and B. 59; *Limland v. Stephens*, 3 Esp. 269; *The Minerva Bell*, 1 Hagg. Ad. 347; *The Test, Brown*, 3 Hagg. Ad. 315.

(25) *The Cambridge, Barber*, 2 Hagg. Ad. 243; *The Josephine*, 1 Swab. Ad. 152; 17 and 18 Viet., C. 104, S. 223.

(26) *The Baltic Merchant, Smith, Edw.* Ad. 86; *The Pearl Denton*, 5 C. Rob. Ad. 224; *The Cambridge, Barber*, 2 Hagg. Ad. 246; *Neave v. Pratt*, 2 N. R. 408.

(27) *McDonald v. Jopling*, 4 M. and W. 285; *Frontine v. Frost*, 3 B. and P. 302; 17 and 18 Viet., C. 104, S. 243.

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(28) *Robinet v. The Exeter*, 2 C. Rob. Ad. 261; *The Blake, Hadden*, 1 W. Rob. Ad. 73.

(29) *The Duchess of Kent, Newby*, 1 W. Rob. Ad. 283; *The Exeter*, 2 C. Rob. Ad. 261; *The Lima, Fewson*, 3 Hagg. Ad. 346.

(30) *The Atlantic, Lush*, Ad. 566.

(31) *The Gondolier Rhodes*, 3 Hagg. Ad. 191; *The Duchess of Kent, Newby*, 1 W. Rob. 285; *The New Phoenix, Lewthwaite*, 1 Hagg. Ad. 195; *The Malta, Young*, 2 Hagg. Ad. 158; *The Blake, Hadden*, 1 W. Rob. Ad. 73; *The Susan, Hamilton*, 2 Hagg. Ad. 229; *The Test, Brown*, 3 Hagg. Ad. 315; *Train v. Bennett*, 3 C. and P. 3.

(32) *The Test, Brown*, 3 Hagg. Ad. 315; *Miller v. Brant*, 2 Camp. 500; *Train v. Bennet*, 3 C. and P. 3; 17 and 18 Vict., C. 104, S. 243.

(33) 17 and 18 Vict., C. 104, S. 244.

(34) *Robins v. Power*, 27 L. J. (C. P.) 257.

(35) 4 Anne, C. 16, S. 17, 18, 19.

(36) 17 and 18 Vict., C. 104, S. 149, 223, 225, Imp.; *The Josephine*, 1 Swab. Ad. 152; *Couch v. Steel*, 3 E. and B. 402.

(37) *Organ v. Brodie*, 10 Exch. 449; *Priestly v. Fowler*, 3 M. and W. 1; *Wigget v. Fox*, 11 Ex. 839; *Potter v. Faulkner*, 31 L. J. (Q. B.) 30.

(38) *The Druid, Newton*, 1 W. Rob. Ad. 391; *Gallagher v. Viper*, 33 L. J. (C. P.) 331; *Bowcher v. Noidstrom*, 1 Taunt. 568; *McMannus v. Cricket*, 1 East 106.

(39) 30 and 31 Vict., C. 124, S. 9, Imp.; *Couch v. Steel*, 3 E. and B. 402.

(40) *Couch v. Steel*, 3 El. and Bl. 407; *Kay, M. and S.* 575.

(41) *The Malta*, 2 Hagg. 166; *Kay, M. and S.* 574.

(42) *The Exeter*, 2 C. Rob. 261; *Kay, M. and S.* 582.

(43) *Stilk v. Myrick*, 2 Camp. 319; *Thompson v. Havelock*, 1 Camp. 527.

(44) *The Nelson*, 3 C. Rob. 227; *Kay, M. and S.* 474.

(45) *Maude and Pollock*, P. 120.

(46) *Ridley v. The Plymouth Baking Co.*, 2 Ex. 711; 17 and 18 Vict., C. 104, S. 8; *Kay, M. and S.* 592.

(47) *Kent's Com.* III, 161; *Kay, M. and S.* 611, 613; *The Blake*, 1 W. Rob. 75; *Button v. Thompson*, L. R. 4 C. P. 343.

(48) *The Araminta*, 18 Jur. 793; *Kay, M. and S.* 708.

(49) *Kay, M. and S.* 625; *The Peggy*, 2 Brown's Civ. Adm. Law App. 533.

(50) 17 and 18 Vict., C. 104, S. 233.

(51) *In Re Dawson*, 1 Fonb. N. R. 229; 17 L. T. 100.

(52) *The Frederick*, 1 Hagg. 211.

## CHAPTER II.

## PART III.

## PASSENGERS.

Whether in the case of a wreck the owners are bound to forward the passengers to their destination by other means or not, depends on the terms of the contract. (1)

A warranty of seaworthiness is guaranteed in the passenger's contract, and he may recover against the owners for any private damage suffered by him in consequence of unseaworthiness of the vessel. (2)

Every steerage passenger by a passenger ship is entitled for forty-eight hours after arrival at his place of destination to sleep and be maintained on board the same as during the voyage, unless the vessel should quit the place sooner in the further prosecution of her voyage. (3)

The master should not exercise his power over the passengers, except in so far as may be necessary for the safety of the ship and well-being and comfort of all on board. (4)

Under circumstances of common danger he may require their assistance either in working the ship or fighting an enemy. (5)

And for extraordinary services the law allows them salvage. (6)

Nothing will justify resistance to any exercise of the master's authority required by the discipline of the ship. (7)

But unnecessary harshness, undue restraint, or restraint improperly continued, will render the master liable to an action for damages. (8)

A captain of a ship has authority to do what is necessary for the safety of those on board, and in cases of danger can assign the passengers to any situation they are capable of filling for the common good. (9)

A person may be removed from the dining table or saloon if his conduct is intolerable, although such conduct might be proper in the steerage. (10)

For injury suffered by the passenger from the negligence of the owners or their servants on board, the owners are answerable. (11)

If the injury is due to the negligence of another ship, her owners are liable, notwithstanding there was negligence also on board the ship the passenger was on, provided the accident could have been avoided with ordinary care by the other. (12)

Infants must be in charge of some one fit to take care of them during the passage. (13)

The owner is the person ultimately liable at the action of a passenger under such circumstances as give the passenger a right to recover. (14)

A steam boat owner who departs from the proper and ordinary manner of landing passengers is responsible for the increased danger of the method he uses. For example, where he asks his passengers to land without putting out a plank or even stopping his boat, he is liable for injuries sustained by them on account of doing so, but where it is from the passenger's own fault, for instance occurring by his jumping too soon, the passenger must put up with his loss. (15)

A purser is not authorized to attempt to take forcible possession of property belonging to a passenger, and in his actual possession, for the purpose of retaining same because the passenger had not paid his fare, nor can the passenger be imprisoned because he has not paid his fare. Where either of the above courses is pursued, the purser is alone liable and not the vessel owners, as the purser is not acting within his duty. (16)

There is no lien for passage money or anything else on the person of the passenger himself, or on the clothes which he is actually wearing, when he is about to leave the ship; but a master has a lien for passage money upon the luggage of a passenger and upon any property he may have on board. (17)

Masters and owners are not liable for injuries to passengers' persons which happen by mere accident, without fault on the part of the

master or owner. (18)

As a general rule carriers of passengers by water are bound to take all who apply for passage and who are ready and willing, and offer to pay the regular fare, provided there is room and no special reason for refusal exists. (19)

The fact that the ship is full, or that the person wanting passage is afflicted with a contagious disease, or is likely to annoy the other passengers by drunkenness, or by his disreputable appearance or manners, will justify a master in refusing passage. (20)

Where a passenger who might have been refused passage on account of his bad character or habits has been received, he cannot be put off so long as he acts properly on board, and the master must treat him in the ordinary proper manner. (21)

It is the duty of the owner and master to supply the passengers with suitable accommodation by day and night, with sufficient and wholesome food, and to treat them respectfully and kindly. (22)

The master has power to exclude a passenger from the general dining table if he misconducts himself there, or if his conduct is ungentlemanly in the strict sense of the word. (23)

Where the passage money is paid in advance, but the ship is lost before the voyage commences, the money can be recovered back, but where the loss occurs after such commencement it cannot, unless the contract allows it to be done. (24)

#### RUNNING ON SUNDAY.

There is no distinction between travellers for pleasure and for business in the "Lord's Day Act," and a conviction of a vessel owner for carrying excursionists on Sunday was held bad. (25)

R. S. O., C. 189, which forbids persons carrying on their ordinary business on Sunday, does not apply to persons in the public service of Her Majesty. Therefore a Government lock tender on a canal is authorized to lock a vessel through on Sunday. (26)

Chapter 41 of the Ontario Statutes of 1885 prohibits Sunday excursions of certain kinds. See Act at end of book.

## NOTES.

- (1) *Leman v. Gordon*, 8 C. and P. 392; *Gillan v. Simpkin*, 4 Camp. 641.
- (2) *Couch v. Steel*, 3 E. and B. 402, 23 L. J. (Q. B.) 121.
- (3) *Cranston v. Marshall*, 5 Exch. 395; 18 and 19 Vict., C. 119, S. 57.
- (4) *Rey v. Leggett*, 8 C. and P. 191, 194; *King v. Franklin*, 1 F. and F. 300; *Aldworth v. Stewart*, 4 F. and F. 957, 14 L. T. N. S. 862.
- (5) *The Branstons Wilson*, 2 Hagg., 3 note; *Newman v. Walters*, 3 B. and P. 612; *Boyce v. Bayliffe*, 1 Camp. 57.
- (6) *Newman v. Walters*, 3 B. and P. 612.
- (7) *Boyce v. Bayliffe*, 1 Camp. 57; *Prendergast v. Compton*, 8 C. and P. 454.
- (8) *Aldworth v. Stewart*, 4 F. and F. 957; *Boyce v. Bayliffe*, 1 Camp. 57.
- (9) *Boyce v. Bayliffe*, 1 Camp. 57.
- (10) *Prendergast v. Compton*, 8 C. and P. 454.
- (11) *Skinner v. L. B. and S. C. R. Co.*, 5 Exch. 787; *Malton v. Nesbit*, 1 C. and P. 70.
- (12) *Davies v. Mann*, 10 M. and W. 546; *Rigby v. Hewitt*, 5 Exch. 240.
- (13) *Waite v. The Northeastern Railway Co.*, 27 L. J. (Q. B.) 417; (in error) 28 L. J. (Q. B.) 258.
- (14) 18 and 19 Vict., C. 119, S. 18, Imp.
- (15) *Cameron v. Milloy*, 14 C. P. 340.
- (16) *Emerson v. The Niagara Navigation Co.*, 2 O. R. C. P. D. 528.
- (17) *Wolfe v. Summers*, 2 Camp. 631.
- (18) *Crofts v. Waterhouse*, 11 Moo. 138; *Christie v. Griggs*, 2 Camp. 81.
- (19) *Parsons on Shipping*, I, 611 (Am.); *Angell on Carriers*, 525, 612 (Am.)
- (20) *Parsons on Shipping*, I, 614 (Am.); *Angell on Carriers*, 437 (Am.)
- (21) *Coppin v. Braithwaite*, 8 Jur. 875, Ex. Ch.
- (22) *Kay on Masters and Seamen*, 821; *Parsons on Shipping*, I, 625, 639.
- (23) *Kay on Masters and Seamen*, 818.
- (24) *Kay on Masters and Seamen*, 826.
- (25) *Regina v. Daggett*, *Regina v. Fortier*, 1 O. R. Q. B. D. 537.
- (26) *Regina v. Berriman*, 4 O. R. Q. B. D. 282.

## CHAPTER III.

PART I--PROTESTS. PART II--DEMURRAGE. PART III--GENERAL  
AVERAGE. PART IV--STOPPAGE IN TRANSITU.

## PART I--PROTESTS.

On the ship's arrival in port the master should, if there is reason for believing that the ship or cargo has sustained any damage from bad weather, accident or otherwise, attend at a notary's office and enter a protest.

A protest should be signed by the master and mate, and in serious cases by one or more seamen, and should contain the names of the ship and master, the port and time of departure, the nature of the cargo, the date of her arrival, the storms and weather encountered on the passage, the accidents which occurred, and if in any way-port, the necessity which compelled her to put in there, in fact a history of the main particulars of the voyage and course pursued by the ship. (1)

Where a ship is not unloaded in a reasonable time, or at the end of the lay-days allowed in the port of discharge, the master should make a protest against the consignee or party receiving the cargo, giving him notice of the date when the ship was ready to discharge, of the fact that he has given due notice thereof, of the number of lay-days allowed, of the date they ended, and of the fact that the ship then commenced to be on demurrage.

Protests should be entered against a charterer for not loading or unloading a ship in the time agreed, or if no time agreed on, then in a reasonable time.

A merchant should enter a protest against a master for drunkenness, for not starting in good time, for not signing bills of lading in the customary form, or for any irregularities. (3)



It is the duty of the master and crew to give correct information respecting the circumstances of the voyage and make a true protest when required to do so by and at the expense of the ship-owners, or any of the owners of the cargo or the consignees thereof who require it. (3)

Protests should be entered as soon as possible after the arrival of the ship. Where she arrives towards evening the next day will answer, but where the ship requires the constant attendance of the captain and the protest is not entered for some days after the arrival of the ship, the delay and causes of same should be noted in the protest. (4)

Where there is no notary at the place the ship is, or convenient thereto, the protest should be noted before some person holding a public office, such as a magistrate, principal customs officer, &c.

The protest must bear date on the date it is signed.

The original protest is always kept by the notary, or official taking same, and where it is made against any particular person as a consignee, charterer, &c., a copy certified by the notary should be given or mailed to such person. The master should always get a certified copy for himself and have one sent to his owners.

Protests are often of great importance in this country, especially in the determining of averages and in adjusting marine insurance losses.

The following form is the one generally used in Canada, but forms must be changed to suit the circumstances of each case :

#### MARINE PROTEST,

DOMINION OF CANADA.

Province of

County of

BY PUBLIC INSTRUMENT OF PROTEST.

BE IT KNOWN AND MADE MANIFEST, to all  
TO WIT : ) whom it doth or shall or may concern, that on the  
day of in the year of our

Lord one thousand eight hundred and

before me

duly appointed, in and for the Province of a Notary Public, by Royal Authority  
in the said County. residing at

PERSONALLY APPEARED,

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of the Port of

of burthen,  
and brought with him

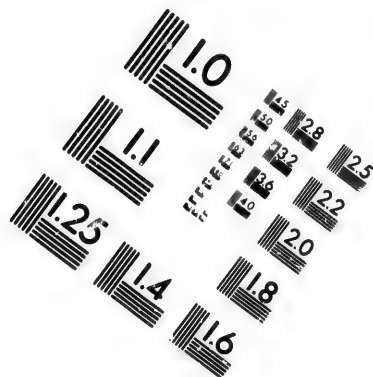
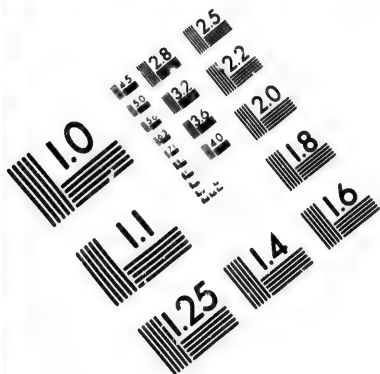
Master of

## 89

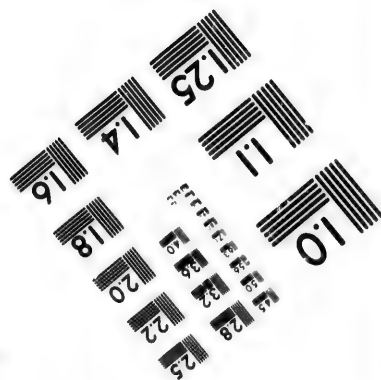
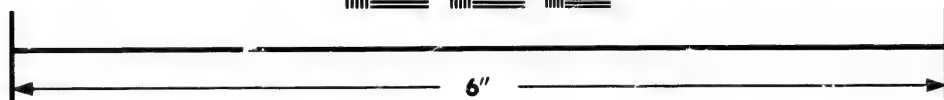
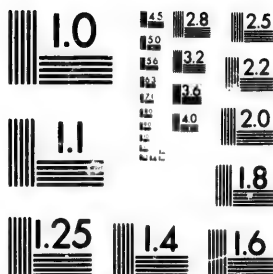
**Notary Public.**

- (1) Abbott on Shipping, by Shee, Pt. IV, C. 5; Kay, M. and S. 251.
- (2) Abbott on Shipping, by Shee, Part IV, C. 5.
- (3) Kay on M. and S. 253.
- (4) Abbott on Shipp. by Shee, Part IV, C. 5; Kay M. and S. 252.





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## CHAPTER III.

## PART II.

## DEMURRAGE.

There is always in every charter a fixed or reasonable time to load and to discharge, and for the delay of the ship beyond this time without the fault of the master, he is entitled to compensation which, when fixed by contract, is called demurrage.

Usually the charter fixes the number of lay-days and the amount per day to be charged for demurrage thereafter, but if the former is omitted the law implies a stipulation for a reasonable time, taking into account the trade and the port the vessel is in. (1)

The law allows damages for any delay longer than the set lay-days or the reasonable time implied, whenever such delay is attributable to the ship-owner or his agents. (2)

It is no excuse for the merchant that the time has been lost through ignorance of the ship's arrival as he is bound to watch for it, and is not entitled to notice. (3)

Where however, the delay is caused by the master or ship-owner, whether it be by his neglect or inability to get clearance papers, or by the state of the weather or damaged condition of the vessel, the merchant is not liable. (4)

An assignee of a bill of lading is liable for demurrage caused by his fault on receipt of the goods if the bill of lading expressly makes them deliverable on payment of same, even where he denies his liability for demurrage at the time he receives the goods (5). It is a question whether he would be also liable for demurrage at the port of lading. (6)

If the bill of lading makes the goods deliverable on payment of demurrage as per charter, or "of the agreed freight and other conditions as per charter," or "of so much per day after a certain time," it is good evidence of the assignee's liability for demurrage incurred through his fault (7). The words "paying for the said goods as per charter with primage and average accustomed," refer only to freight and not to demurrage. (8)

18 and 19 Vict., C. 111, transfers the rights and liabilities of the contract in the bill of lading to the consignee or indorsee, and vests the same in him as if the contract had been made with himself.

Where there is nothing in the bill of lading in reference to demurrage which would amount to evidence of a contract, the master has no right of action against the consignee or indorsee for demurrage in consequence of his receipt of the goods thereunder. (9)

In reckoning time for demurrage DAYS and RUNNING DAYS mean the same thing, *i e* without excepting holidays (10) in case of a usage or peculiar custom to the contrary it is different. (11)

The time by law begins to run on the arrival of the ship at the usual or mentioned PLACE OF DISCHARGE in the PORT OF DESTINATION, if there is nothing in the contract to the contrary. (12)

The parties are of course bound by their contract if they have fixed a certain period from which the demurrage is to begin running. (13)

A charter signed by both parties with the knowledge that the loading machinery is under repair is satisfied in the absence of agreement as to time, if the loading machinery begins to work within a reasonable time after the charter is made, and the vessel is loaded in a reasonable time after such commencement. (14)

If the parties contract without notice of existing impediments and do not bargain against them, the freighter is liable for unreasonable delay. (15)

Where the whole voyage has been prevented, the action should be for damages for non-performance of the charter contract and not one for demurrage. (16)

Where phrases appear in a charter or bill of lading with a peculiar sense derived from the custom of merchants, or the usage of a particular port, or the special trade in question, evidence is admissible to explain them. (17)

The former rules respecting demurrage are all on the assumption that one freighter has loaded the ship.

In the case of a general ship where there are a number of freighters, each of whom has contracted to pay a certain rate per *diem* demurrage after a given day, the rule generally received as the only one sanctioned by legal principle is that the strict legal interpretation of the terms of the contract should govern. Therefore, each party must pay the full rate he has contracted to pay for the full time the demurrage runs. (18)

Lord Tenderden, however, who was of opinion that if a consignee can not get his goods because some other person's goods prevent him he is not liable for the delay of the vessel dissented from the above roll. (19)

Where a ship is delayed after being loaded by ice or bad weather the freighter is not liable for demurrage for such delay. (20)

Sundays are counted in demurrage unless there is a custom or bargain to the contrary. (21)

Where the delay is caused by the customs officer's wrongful act or by the crowded state of the docks, the freighter is not excused. (33)

Where nothing is said about the demurrage in the bill of lading, the cargo is to be received within a reasonable time and as a general rule the consignors are under the above circumstances the proper persons to be sued. (23)

A master who after being notified that another vessel is ready to proceed to sea, will not move out of her way to let her pass and so obstruct the stream for an unseasonable length of time is liable. (24)

Demurrage is allowed to the owners of a ship damaged by collision during the time that she has been necessarily delayed re-



pairing the damages of the collision and transacting business clearly connected with such collision. (25)

Where no time is fixed for the discharge of the cargo the ship owner and merchant have each to do his part in reasonable time, and where the unloading is delayed by a cause over which the merchant has no control and the delay is without fault on his part he is not liable. (26)

A fraction or part of a day counts as a full day. (27)

Where a charterer is allowed a given number of days to unload, he takes the risk of any ordinary vicissitudes occurring to prevent loading after the ship is at the usual place of discharge and is liable for demurrage after the lay-days are up. (28)

A shipper in a general ship is liable for the faults of his co-shippers and undertakes to bear the risk of being prevented from discharging his portion of the cargo from the ship within the lay days by the default of other shippers or consignees. (31)

A consignee has been held liable for unduly detaining a ship where there has been no express agreement as to demurrage, he being bound to unload within the time prescribed by custom of the port, but where the delay was caused by a most destructive fire occurring, the consignee was held not liable without proof of negligence, as in the absence of express condition he is only bound to use a reasonable dispatch. (32)

A bill of lading so far as it is a contract cannot be explained by parole, but so far as it is a receipt it may be. (33)

In the United States demurrage becomes due for delay without express contract as an implied liability, and a lien exists for same. (34)

In estimating demurrage a part of a day counts as a whole day. (35)

An exemption clause exempting the charterer from liability under a charter-party which provides for demurrage at the port of discharge only, does not apply to undue delay at the port of loading. (36)

A captain or vessel owner has no lien on the cargo for demurrage. (37)

## PRIMAGE AND AVERAGE.

Primage is a payment in the nature of a gratuity made by the freighter to the master of the ship upon delivery of the cargo.

By virtue of long usage, it maintains its place notwithstanding the jealousy of the common law, which allows no man to have an interest against his duty. (29)

Unless expressly mentioned in the charter or in the bills of lading it is not recoverable. (30)

Average denotes several petty charges which are to be borne partly by the ship and partly by the cargo, such as the expense of trimming, beaconage, &c.

Both above charges are almost out of date on the inland waters of America, and charters are generally made without reference to them.

## NOTES.

(1) *Crow v. Falk*, 8 Q. B. 467; *Burnester v. Hodgson*, 2 Camp. 488; *Rodgers v. Forresters*, 2 Camp. 483; *Hill v. John*, 4 Camp. 327; *Horn v. Bensusan*, 2 M. and Rob. 326.

(2) *Randall v. Lynch*, 12 East 179, 182; *Moorson v. Bell*, 2 Camp. 616; *Temperly v. Brown*, 1 Dowl. N. S. 310; *Stevenson v. York*, 2 Chitty 570; *Leer v. Yates*, 3 Taunt. 387; *Brown v. Johnson*, 10 M. and W. 331; *Struck v. Tenant*, T. T. 1806; *Barret v. Dutton*, 4 Camp. 333; *Fenwick v. Schmalz*, L. R. 3, C. P. 313; *Hudson v. Edle*, L. R. 2, Q. B. 506; *Hill v. John*, 4 Camp. 357; *Furnell v. Thomas*, 5 Bing. 188; *Hill v. Idle*, 4 Camp. 327; *Erichsen v. Burkworth*, 3 H. and N. 60, 27, L. J. (Ex.) 672; *Crofton v. Pickernell*, 16 M. and W. 829.

(3) *Harman v. Clarke*, 4 Camp. 159; *Harman v. Mant*, 4 Camp. 161; *Erichsen v. Burkworth*, 3 H. and N. 894, 28 L. J. (Ex.) 95.

(4) *Barrett v. Dutton*, 4 Camp. 333; *Balley v. Dairoyane*, 7 A. and E. 919; *Jamieson v. Laurie*, 6 Bro., C. P. 474; *Pringle v. Mollett*, 6 M. and W. 80; *Ford v. Cotesworth*, L. R. 4 Q. B. 127.

(5) *Stindt v. Roberts*, 5 D. and L. 460, 17 L. J. (Q. B.) 166; *Wegener v. Smith*, 15 C. B. 729; *Sanders v. Vanzeller*, (in error) 4 Q. B. 260; *Kemp v. Clark*, 12 Q. B. 647.

¶ (6) *Smith v. Sieveking*, 24 L. J. (Q. B.) 257, (in error) 5 E. and B. 589.

(7) *Stindt v. Roberts*, 17 L. J. (Q. B.) 160; *Jesson v. Solley*, 4 Taunt. 52; *Shadford v. Corg*, 32 L. J. (Q. B.) 78; *Wegener v. Smith*, 15 C. B. 729.

(8) *Gray v. Carr*, L. R. 5, Q. B. 522; *Smith v. Sieveking*, 24 L. J. (Q. B.) 257.

(9) *Brouncker v. Scott*, 4 Taunt. 1; *Evans v. Forster*, 1 B. and Ad. 118; *Smith v. Sieveking*, 24 L. J. (Q. B.) 257; *Cawthorn v. Trickett*, 15 C. B. N. S. 754; *Foster v. Colby*, 28 L. J. (Ex.) 81, 88; *Shand v. Sanderson*, 28 L. J. (Ex.) 278.

(10) *Cochran v. Retberg*, 3 Esp. 121; *Brown v. Johnson*, 10 M. and W. 331; *Niemann v. Moss*, 29 L. J. (Q. B.) 206.

(11) *Cochran v. Retberg*, 5 Esp. 121.

(12) *Kell v. Anderson*, 10 M. and W. 498; *Brown v. Johnson*, 10 M. and W. 331; *Leer v. Yates*, 3 Taunt. 387; *Parker v. Winlo*, 7 E. and B. 942, 27 L. J. (Q. B.) 49; *Bustifal v. Lloyd*, 1 H. and C. 388, 31 L. J. (Ex.) 413; *Hillstrom v. Gibson*, 8 Sessions Cases (1870) P. 463; *Tapscott v. Balfour*, L. R. 8, C. P. 46; *Brereton v. Chapman*, 7 Ring. 559.

(13) *Seeger v. Duthie*, 30 L. J. (C. P.) 65; *Gibbons v. De Buisson*, 1 Bing. N. C. 283; *Marshall v. De La Torre*, 1 Esp. 367; *Connor v. Smythe*, 5 Taunt. 654; *Sweeting v. Darthez*, 14 C. B. 538, 23 L. J. (C. P.) 131; *Valente v. Gibbs*, 28 L. J. (C. P.) 229; *Galloway v. Jackson*, 3 M. and Gr. 960, 5 Bing. N. C. 71; *Stevenson v. York*, 2 Chit. R. 570.

(14) *Harris v. Dreesman*, 23 L. J. (Ex.) 210.

(15) *Adams v. Royal Mail S. P. Co.*, 28 L. J. (C. P.) 33; *Ashcroft v. Crow Orchard Colliery Co.*, L. R. 9, Q. B. 540.

(16) *Smith v. McGuire*, 27 L. J. (Ex.) 465, 472; *Liddard v. Lopes*, 10 East 525; *Barker v. Hodgson*, 3 M. and Sel. 267.

(17) *Leidman v. Schultz*, 14 C. B. 38; *Robertson v. Jackson*, 2 C. B. 412.

(18) *Leer v. Yates*, 3 Taunt. 387; *Randall v. Lynch*, 2 Camp. 352; *Harmann v. Gandolph*, Holt, 35.

(19) *Dodson v. Droof*, M. and M. 441; *Rogers v. Hunter*, M. and M. 63; *MacLachlan on Shipping*, 495.

(20) *Barrett v. Dutton*, 4 Camp. 333; *Pringle v. Mollett*, 6 M. and W. 80.

(21) *Brown v. Johnson*, 10 M. and W. 332; *Nieman v. Moss*, 29 L. J. Q. B. 206.

(22) *Randall v. Lynch*, 2 Camp. 351; *Leer v. Yates*, 3 Taunt. 387; *Tapscott v. Balfour*, L. R. 8, C. P. 46.

(23) *Land et al. v. Woodward*, 5 Q. B. 190; *Brown v. Ross et al.*, 5 Q. B. 469; *McGrevy v. Rathbone et al.*, 11 C. P. 186; *Barker v. Torrance et al.*, 30 Q. B. 43, upheld on appeal, 31 Q. B. 561; *Kemp v. McDougall*, 23 Q. B. 380; *Burnet v. Conger*, 23 C. P. 590.

(24) *Hall v. Ewart*, 33 Q. B. 491.

(25) *The City of Buenos Ayres*, 25 L. T. 672, Adm.

(26) *Fori v. Cotesworth*, 5 L. R. Q. B. 544; 39 L. J. Q. B. 188; 23 L. T. 165; 18 W. R. 11,69; *Waugh v. Morris*, 8 L. R. Q. B. 202, 42, L. J. Q. B. 57; *Gadet v. Brown*, 5 L. R. P. C. 134; 28 L. T. 745.

(27) *Commercial S. S. Co. v. Boulton*, 10 L. R. Q. B. 346; 44 L. J. Q. B. 219; 33 L. T. 707; 23 W. R. 854.

(28) *Thns v. Byers*, 1 Q. B. D. 244; 45 L. J. Q. B. 511; 34 L. T. 526.

(29) *Thompson v. Havelock*, 1 Camp. 527; *Diplock v. Blackburn*, 3 Camp. 43; *Gardner v. McCutcheon*, 4 Beav. 534.

(30) *Best v. Saunders, M. and M.* 208.

(31) *Thns v. Byers*, 1 Q. B. D. 244; *Porteus v. Watney*, 3 Q. B. D. 223, 534.

(32) *Fulton v. Blake*, 5 Biss. (Am.) 371; *Weaver v. Walton*, 5 Chicago L. News 125. In these cases it was proved that the custom of the Port of Chicago was to allow one day to the consignee, after notice of the ship's arrival, to provide a dock for her.

(33) *The Lady Franklyn*, 8 Wallace Sup. Ct. 325; *Halliday v. Hamilton*, 11 Wall. 560; *Higgins v. U. S. Mail St. S. Co.*, 3 Bl. 282.

(34) *Donaldson v. McDowell*, 1 Holmes Mass. C. C. 290; *Weaver v. Walton*, 5 Biss. 377, N.; *The Hyperion's cargo*, 2 Low. 9.; *The John*, 2 Hagg. 317.

(35) *Commercial Steamship Co. v. Boulton*, L. R. 10 Q. B. 346.

(36) *Lockhart v. Falk*, L. R. 10, Ex. 132; *Lister v. VanHunusbergen*, 1 Q. B. Div. 269.

(37) *Laird v. Woodward*, 5 Q. B. 190.

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## CHAPTER III.

## PART III.

## GENERAL AVERAGE.

Where a vessel with a cargo is in imminent danger of being lost and a part of the property is sacrificed for the purpose of preserving the remainder, all must combine to pay for the loss. This is known as general average.

To justify general average, the ship and cargo must be in such danger of being lost that a skilled mariner of good judgment believes that to save any part he must sacrifice the rest, and in such a position it is the master's duty to make such sacrifice. The sacrifice being intentional and deliberate, an act of the elements will not amount to a general average. For example where a master to prevent total loss throws part of the cargo overboard or cuts away the masts it is general average. But where the storm or a collision effects the same thing as by washing overboard cargo or otherwise, it is not a general average loss.

The act done to be a general average one must not come within the scope of the ordinary duties of the ship-owner or master. For example, where a ship carries on a press of canvass to escape from danger and she sustains damage in the hull, rigging or otherwise in consequence, this is not the subject of general average, as it was the master's duty under the charter to do so. (1) Where a master hires extra hands to work the pumps to prevent the ship from sinking, he is entitled to general average. (2)

The act performed to rank as general average must be done for the good of the whole, and therefore when anything is thrown overboard for its own specific safety and not for the purpose of assisting to save the rest the loss is not a general average one (3)

For an act to be allowed as general average it is not necessary that success should be proved to have followed it as a natural consequence.

The safety of the whole ship and cargo must be in immediate danger to justify general average acts, and therefore casting away part to merely prevent a threatened partial loss is not within a master's duty and he has no such power.

It is the master's duty in case of a general average loss to draw up an account of same as soon as he reaches port, and this statement must be sworn to by himself and two or three of the most prominent of his crew.

Where an act comes under all the before mentioned requirements of general average, the master is the agent of the merchant or person whose property is destroyed for the purpose of such destruction or jettison, and the merchant is entitled to a contribution from the other owners to help replace his loss. (3 a)

Cargo stowed on deck and jettisoned is not a good foundation for a general average claim unless it is a usage of the trade to carry similar deck cargoes, or unless it is specially so agreed before hand. (4)

Under the United States laws the rule is not to apply general average to the loss of deck cargoes, as the owners of the cargo under cover ought not to contribute for the loss of goods on deck, even where it is the usage of the trade to carry cargo on deck. (5)

Where a ship is stranded, or in danger of sinking, or is too deep in the water to enter a port of distress, and goods are unloaded into boats or otherwise, or merely removed from their former place of safety for the purpose of relieving the ship in such distress and are in consequence lost, it is a general average loss. (6)

Where part of a ship's apparel is sacrificed for the safety of the rest of the venture, this is a general average loss. For example, where masts or sails are cut away to relieve a ship, or where a cable is cut to save a vessel from getting on shore, and in fact any case in which articles are used for other than their proper services for a common benefit and are lost in consequence. (7)

Boats cast overboard or cut away are the subject of general average, unless in case of boats cut from davits if it was against the usage of the trade to carry them so. (8)

Where a ship is voluntarily stranded to escape destruction and is afterwards saved, the damages are considered as coming under the general average law. (9)

Where a ship is so badly injured as to be forced for the common safety to deviate from her voyage in order to repair at a port of distress, the expenses of entering the port, such as pilotage, towage when disabled, dues and other indispensable expenses and the expenses of unloading the cargo when unloaded for the sake of both ship and cargo, all come under the general average law. (10) Such is not the case where the unloading was merely for the purpose of preserving the cargo, or where ship's stores are unloaded after the cargo is out. (11) And the expense for storing the cargo comes out of the cargo and those for out port charges and expenses of reloading on the freight. (12) There is a doubt as to whether reloading is a general average expense or not. (13)

Repairs done to a ship where the injury to be repaired is not the result of a voluntary and intentional sacrifice for the good of all are to be paid for by the ship owner. (14)

All the extra expenses incurred by the deviation in the voyage for the wages and keep of the crew are the subject of general average if the repairs are too. (15) In some of the States the law allows the two latter expenses as general average whether the repairs are so allowed or not. (16)

Salvage and extra help absolutely necessary when both ship and cargo are running the same peril and are rescued by such means come under the general average head. (17) Otherwise where the services &c., rendered are wholly for the benefit of the vessel. (18)

If the sacrifice be without reference to the general good although the danger be common, as for instance when goods are thrown into the sea with the object of saving them ultimately, or preventing them reaching other hands, this is not general average. (19)

Losses which are fairly within the contract made by either party cannot be classed as general average, for example, injury or loss of sails, spars, rigging or damage to the ship by perils of the sea and repairs of such must all be borne by the ship owner or his insurer. (20)

As a general rule damages sustained by an accidental collision, or from being obliged to run out to sea to save being cast on a lee shore are not within the general average rule. (21)

Wages and keep of a crew while the ship is undergoing necessary repairs during the voyage or whilst she is in quarantine in the ordinary course, or wind-bound, ice-bound or the like in a place she was not forced to make for out of the ordinary course of the voyage for the common benefit are not the subject of general average. The same rule holds where she goes into a way-port for supplies, water or provisions. (22)

These losses are as a general rule part of the ship owner's duty under ordinary contracts, even when occurring under unusual circumstances, and although the master is forced to sell part of the cargo to meet them the ship must pay the whole loss. (23)

The property to contribute is all that which ran the risk and shared in the benefit, including that thrown overboard and also the freight on all the cargo. This rule, therefore, only excludes goods or things which were either discharged before the danger or shipped after same was over.

The cargo contributes according to its value, not weight, but the apparel, personal jewelry and baggage of the passengers do not contribute. (24)

Deck loads always have to contribute, but can very seldom claim for a general average loss. (25)

The ship of course contributes and also all freight which is directly benefitted, including freight on the goods for loss of which contribution is made.

The value of the articles contributing in general average are ascertained as follows :



The goods are taken at their market price in the port of destination or the port where the voyage ends, first taking off the freight, duty, and discharging expenses and also, deducting any damage usually happening such goods by leakage or breakage. (26)

Where, however, the vessel is obliged to run back to the port of departure, then the first cost is taken adding shipping charges and insurance and deducting any damage unavoidably happening to the goods saved. (26)

Where goods jettisoned are afterwards found, their value when saved must be deducted from the general average claim, less the expenses of salvage.

Where goods are sold during a voyage to raise means to complete the voyage the owner is entitled to be paid for them at the net prices they would have brought at the port of destination or at the price they brought when sold as above. (27) But in the case of the ship not reaching the port of destination, then at the price they actually brought, less freight duty and discharging expenses. (27)

Where the claim to be paid as a general average loss is for damage to the ship or her apparel, the expense of the repairs deducting one third new for old is to be taken as the amount of the loss.

Where the general average claim is for money or materials expended for the common good, and which did not form part of the property in danger and was not therefore benefitted, the cargo is liable on its value as at the time of the risk, subtracting freight and expense of loading.

The freight that contributes is all that was in danger at the time of relief, not therefore including freight paid in advance or that on goods discharged before the danger occurred.

The value of the ship for the purpose of general average is estimated her actual worth when she reaches a place of safety. (28) Less the provisions and stores expended, the wear and tear of the voyage and any partial loss incurred.

Where, however, the claim is for money expended, her value must be

taken at the actual worth of her at the time of the risk deducting as above. (29)

The master has power to retain goods until the amount of the contribution due by their owners for general average has been paid. (30) In case of a general ship the usual course is for the master before he delivers their goods to take a bond from the different merchants for payment of their contributions when ascertained.

The master, however, has the right to recover for his own loss against his insurer, and such insurer will stand in the master's place as regards enforcing general average contribution. (31)

The consignee of a bill of lading, not being the owner of the goods is not liable for general average claims, even where he has received the goods unless expressly so stipulated in the bill of lading as a condition of his receiving the goods. (32)

Damage to cargo sustained by scuttling a ship to put out a fire gives a claim for general average contribution. (33)

Where a ship sailed well equipped and manned for the voyage, having a donkey-engine on board and a reasonable supply of coals to work it for pumping services, but owing to very heavy weather the ship sprang a leak and the master was obliged to burn some spare spars and part of the cargo, the coals running short, the court held that the sacrifice of the spars and cargo was general average. (34)

Where anything on board a ship which was cut or cast away because it was endangering the whole risk was at the time in such a state or condition that it must itself certainly have been lost although the rest of the risk might be saved without the cutting or casting away, then the sacrifice of such thing gives no claim for general average. (35)

A ship owner cannot recover as general average, the expenses for the wages and provisions of the crew while the vessel was stranded, and while endeavouring to get her off the beach, even though the damage done to the boat herself was a subject of general average. (36)

The "Wacousta," schooner, chartered to carry a load of timber from Spanish River to Chippewa, left Spanish river with the timber on the 15th of October. Shortly afterwards she began to make water

freely and a snow storm coming up she ran into Bayfield Sound, where notwithstanding the work of the crew she water-logged.

She remained so in Bayfield Sound until November 10th, and was then towed in that condition to Sarnia where she got a steam pump and was thence towed with it on board to the Welland canal, where she arrived on the 25th of November and being frozen up there was unloaded.

The owner of the vessel retained the cargo for the freight and the expenses of the tug, pump and extra help.

The court held that the evidence showed the vessel to have been unseaworthy at the commencement of and during the whole voyage, and that the expenses were incurred thereby and that the ship owners had no claim except for freight.

The captain amongst other things swore as follows: "She was towed without a steam pump to Sarnia. The deck was then three or four feet under water. The crew were roosting. When she got to Sarnia she drew eighteen feet. Although I sailed her for three years I was mightily scared of her." (37)

Where a ship is stranded and lost by stress of weather and the master employs another vessel to take the cargo to its destination, the owners of the cargo will be liable for any extraordinary expense so incurred in addition to the freight. (38)

When a ship is burnt and sunk, the captain has no authority to make a contract to raise cargo that is not in immediate danger of being destroyed and not even in the latter case when he can communicate readily with the owner of the cargo, and when he does make such a contract there is no lien upon the cargo by way of general average for expenses incurred in raising the boat or machinery. (39)

It was held in the case of the Ireland that there was evidence of a custom on the lakes for steamers to carry deck loads and to deal with them as subject to general average, and that they were subject to general average. (40)

Where there is a usage to carry a deck cargo, if that cargo be cast overboard in a storm to lighten the vessel, the ship owner is liable

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for average to the owner of the deck load, without taking into account the cargo in the hold. (41)

Where there is a usage to carry deck loads, the owner of the cargo below decks is obliged to contribute towards the loss of same as general average. Otherwise where the bill of lading states differently. (42)

For Canadian cases on the question of general average for expenses incurred in relieving a stranded vessel, &c., see (43)

There are two exceptions to the rule that deck cargo jettisoned is not entitled to general average contribution, namely: In the case of coasting vessels, and in those cases where by custom the deck cargo is one customary to the trade and perhaps also from the port. (44)

Under a stipulation in a charter that "the deck cargo if any is to be charged full freight, but at merchants risk," the merchant is not entitled to general average contribution for deck cargo jettisoned. (45)

Where a general average loss has occurred the master or owner should not deliver up the cargo without first taking the necessary steps for procuring an adjustment of the general average and securing its payment. (46)

Where a ship is compelled to put into port to repair damages occasioned by a general average sacrifice, the expenses of warehousing and reshipping cargo, necessarily unloaded in order to repair, and the port and pilotage charges and other expenses on leaving the port, are the subject of a general average contribution. (47)

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#### NOTES.

(1) *Covington v. Roberts*, 2 B. and P. N. R. 378; *Taylor v. Curtis*, 6 Taunt 608; 2 Marsh R. 309; 4 Camp 334; *Wilson v. Bank of Victoria*, L. R. 2 Q. B. 203.

(2) *Wilson v. Bank of Victoria*, L. R. 2 Q. B. 203, 213; *Oppenbein v. Fry*, 3 B. and S. 873.

(3) *Nesbitt v. Lushington*, 4 T. R. 783; *Butler v. Wildman*, 3 B. and Ald. 398.

(3 a) *Macleachlan on Shipping*.

## AVERAGE BOND.

Articles of agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_  
 A. D. 18 \_\_\_\_\_ between \_\_\_\_\_  
 Master of the ship or vessel \_\_\_\_\_  
 of the port of \_\_\_\_\_ of the first part, and the several  
 persons whose names are hereunto subscribed of the second part. Whereas the  
 said ship or vessel \_\_\_\_\_ having on the  
 day of \_\_\_\_\_  
 last, sailed from the port of \_\_\_\_\_ bound on a voyage  
 from thence to \_\_\_\_\_ laden with a cargo of  
 \_\_\_\_\_ and having on or about the  
 day of \_\_\_\_\_ following, (here state clearly and care-  
 fully the facts which gave rise to the general average,)  
 the crew were obliged for the safety of the vessel and cargo, (here  
 state the sacrifice and expense incurred for the benefit of all concerned,)  
 whereby or by means whereof, con-  
 siderable loss has been sustained and considerable expenses, disbursements  
 and charges have been incurred, the amount, whereof, cannot at present be  
 sufficiently ascertained, and which may form a charge on the vessel, freight  
 and cargo, or may come under the denomination of a general average, to  
 which the said parties of the second part, being respectively owners or con-  
 signees or agents of owners or consignees of the goods laden on board thereof,  
 may be liable to contribute.

*Now these Articles Witness* that in consideration of the engagements and  
 agreements of the said parties of the second part, herein after contained the  
 said

for himself individually, and also for the owners of the  
 said vessel engages and agrees with each of the said parties of the second  
 part that he the said \_\_\_\_\_ or the said owners, shall  
 and will deliver or cause to be delivered as soon as can be conveniently done  
 at the port of \_\_\_\_\_ aforesaid, and on reasonable  
 request the respective goods, wares and merchandize, laden on board the  
 said vessel, belonging or consigned, respectively, unto the several parties of  
 the second part, his or their factors, agents or assigns, and permit them to  
 receive, take possession, and remove the same according to their respective  
 rights, positions or ownerships thereof, (the damages or casualties of the seas  
 and navigation, restraints of princes and rulers, fires, pirates, enemies or other  
 inevitable accident not preventing.)

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## GENERAL AVERAGE.

In consideration, whereof, the said parties of the second part, do hereby for themselves severally and respectively and not jointly, personally engage and agree with the said master individually, and also with the owners of the said vessel to pay, or cause to be paid, unto the said master or as may be required unto the owners of the said vessel or their agents, the proper and respective proportions of the said general average loss and expenses in respect of their respective goods, and all legal charges, salvage and other expenses to which they are or shall be respectively liable, or which the cargo ought to bear under the aforesaid circumstances, rateably and in fair proportions; and for the better computing the same, they do hereby further agree to refer the amount and proportion thereof, to be ascertained and adjusted by law, (or by of and whose decision in the premises they do hereby engage to abide by and perform.)

Witness, the hands and seals of the said parties hereto this day and year first above written.

Signed, Sealed and  
delivered in presence  
of

## Guarantee for Payment of Average Bond.

In consideration of master of the ship or vessel of the port of releasing to certain goods which are in possession of the said and in respect of which he claims certain charges against the said for general average losses, and accepting the bond of the said for payment thereof, I hereby covenant and agree with the said his attorneys, executors, administrators and assigns, that he shall and will truly and faithfully keep and perform the obligation in the said bond on his part, and pay to the said his attorneys, executors, administrators or assigns, all moneys which he the said is by the said bond or by law bound to pay in respect of the matters in the said bond referred to.

Witness my hand and seal this

day of

A. D. 18

Signed, sealed and  
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Sel. 141  
Ins. No.  
(23) H

(4) *Milward v. Hibbert*, 3 Q. B. 120; *Dacosta v. Edmund*, 4 Camp. Gould v. Oliver, 4 Bing. N. C. 134; *Harley v. Milward*, 1 Jones and C149; 224; *Johnson v. Chapman*, 35 L. J. (C. P.) 23. arey

(5) *Lennox v. United Ins. Co.*, 3 Johns C. 178; *Smith v. Wright*, 1 Caines (New York) Rep. 43; *Dodge v. Bartol*, 5 Greanleaf Rep. 286; *Cram v. Aiken*, 13 Maine Rep. 229.

(6) 1 *Emerigon* 599; 2 *Valin* 167; *Baily* 60; *Benecke* 178, 213.

(7) 1 *Emerigon* 605; *Baily* 64; 2 *Arnould Ins.* 771; 2 *Phillips Ins.* No. 1285; *Birkley v. Presgrave*, 1 East 220; *Price v. Noble*, 4 Taunt 123.

(8) *Stevens* 14; *Benecke* 187; 1 *Emerig* 599; *Blackett v. Royal Exch. Ass. Co.* 2 Cr. and J. 244; *Lennox v. United Ins. Co.* 3 Johns C. 178.

(9) 3 *Kent Comm.* 239; *Abbott Shp.* 5 Ed. 349 (1827); 2 *Phillips Ins.* No. 1313; 2 *Arnold Ins.* (2d Ed.) 915; *Bradhurst v. Columbian Ins. Co.*, 9 Johns N. Y. Rep. 9; *Columbian Ins. Co. v. Ashley*, 13 Peter's Rep. Supreme Court 331; 2 *Valin* 168; *Roccus de Nav.* not 60.

(10) *Benecke* 192; *Stevens* 23; 2 *Arnould* 781; *Hall v. Janson*, 24 L. J. (Q. B.) 97.

(11) *Plummer v. Wildman*, 3 M. and Sel. 482; *The Copenhagen, Mening*, 1 C. Rob. Ad. 289; *Stevens* 75; *Job v. Langton*, 26 L. J. (Q. B.) 97.

(12) 2 *Arnould Ins.*, 782.

(13) *Hall v. Janson*, 24 L. J. Q. B. 97.

(14) *Power v. Whitmore*, 4 M. and Sel. 141; *Job v. Langton*, 26 L. J. (Q. B.) 97; *Paddleford v. Bordman*, 4 Mass. 548; (*Abbott Am. Ed.* 498); *Wilson v. Bank of Victoria*, L. R. 2 Q. B. 203.

(15) *Hallett v. Wigram* 9 C. B. 586; *Decosta v. Newham*, 2 T. R. 407; (See) 3 *Kent Com.* 235.

(16) 3 *Kent Com.* 235.

(17) *Birkley v. Presgrave*, 1 East 220; *Kemp v. Holliday*, 34 L. J. (Q. B.) 233; L. R. 1. Q. B. 520; *Stevens* 25, *Benecke* 230; 2 *Arnold*, 787; *Moran v. Jones*, 26 L. J. (Q. B.) 187.

(18) *Job v. Langton*, 26 L. J. (Q. B.) 97; *Walthew v. Mavrojani*, L. R. 5 Ex. 116; *Nesbitt v. Lushington*, 4 T. R. 783.

(19) *Butler v. Wildman*, 3 B. and Ald. 398.

(20) *Power v. Whitmore*, 4 M. and Sel. 142; *Hallett v. Wigram*, 9 C. B. 586; *Job v. Langton*, 6 E. and B. 779; 26 L. J. (Q. B.) 97; *Covington v. Roberts*, 2 B. and P. N. R. 378; *Taylor v. Curtis*, 6 Taunt 608.

(21) *Power v. Whitmore*, 4 M. and Sel. 141; 2 *Phillips Ins.* 1272; *Peters v. Warren Ins. Co.*, 1 Story R. 463.

(22) *Stevens on average*, 23; *Benecke*, 214; *Power v. Whitmore*, 4 M. and Sel. 141; *Hallett v. Wigram*, 9 C. B. 586; *Baily on average*, 82; 2 *Phillips Ins.* No. 1323; 2 *Arnold Ins.* 786; 1 *Magens* 67; 1 *Emerigon*, 614.

(23) *Hallett v. Wigram*, 9 C. B. 586; *Powell v. Gudgeon*, 5 M. and Sel.

431 ; Sarguy v. Hobson, 3 Bing. 131 ; Bensen v. Duncan, 3 Exch. 644 ; 2 Valin, 525.

(24) 1 Magens P. 62, 63 ; Abbott, 4 Ed. 369.

(25) 2 Arnold 792 ; 1 Emerigon 648.

(26) Benecke 293 ; Fletcher v. Alexander, L. R. 3 C. P. 375 ; 2 Arnould 800.

(27) 2 Arnould 803 ; 2 Phillips, No. 1363 ; Deban v. Ocean Ins. Co., 5 Cowen 63 ; Richardson v. Mourse, 3 B. and Ald. 237 ; Atkinson v. Stephens, 7 Exch. 767.

(28) Grainger v. Martin, 31 L. J. (Q. B.) 186 ; in error, 4 B. and S. 9.

(29) Stevens, 53.

(30) Harris v. Scaramanga, L. R. 7. C. P. 481 ; Dig 14, 2, 2.

(31) Dickinson v. Jardine, L. R. 3 C. P. 639.

(32) Scaife v. Tobin, 3 B. and Ad. 523.

(33) Ackard v. King, 31 L. T. 647.

(34) Robinson v. Price, 2 Q. B. D. 295 ; 46 L. J. Q. B. 551 ; 25 W. R. 409 C. A.

(35) Sheppard v. Kottgen, 2 C. P. D. 585 ; 47 L. J. C. P. 67 ; 26 W. R. 120 C. A.

(36) The Ireland, Steinhoff vs. R. C. Ins. Co., 42 Q. B. 307.

(37) Chaffey v. Schooley, 46 Q. B. 165.

(38) Rogers v. Hooker, Et al 15 Q. B. 63.

(39) Gurney Et al v. McKay, 37 Q. B. 324.

(40) Steinhoff v. R. C. Ins. Co, 42 Q. B. 307.

(41) Gronselle v. Ferrie, Et al 60 S. 454 ; Stephens v. McDonell, M. T. 6 vict. Merritt v. Ives, M. T. 4 vict.

(42) Spooner Et al v. Western Assurance Co., 38 Q. B. 62 ; Gibb v. McDonell, 7 Q. B. 356.

(43) Grover v. Bullock, 5 Q. B. 297 ; Gibb v. McDonell, 7 Q. B. 356 Rogers v. Hooker, Et al 15 Q. B. 63.

(44) Johnson v. Chapman, 19 C. B. N. S. 563 ; Wright v. Marwood ; Gordon v. Marwood, 7 Q. B. D. 62 ; 50 L. J. Q. B. 643 ; 29 W. R. 673, C. A.

(45) Burton v. English, 10 Q. B. D. 426 ; 52 L. J. Q. B. 386 ; 48 L. T. 730 ; 31 W. R. 566.

(46) Crook v. Allan, 5 Q. B. D. 38 ; 49 L. J. Q. B. 201 ; 41 L. T. 800 ; 28 W. R. 304.

(47) Attwood v. Sellar, 5 Q. B. D. 286 ; 49 L. J. Q. B. 515 ; 42 L. T. 644 ; 28 W. R. 604, C. A.



## CHAPTER III.

## PART IV.

## STOPPAGE IN TRANSITU.

Where a merchant ships goods to a purchaser without receiving payment in advance and, finding before the latter receives possession that the purchaser is a bankrupt or insolvent, stops the goods before delivery, the act of taking possession again by the seller is called "Stoppage in Transitu."

To entitle the seller to stop *in transitu* the price of the goods must still be due him, and the purchaser must be bankrupt or an insolvent.

His right still remains even where he sold the goods on credit and the time given for credit is not yet up, or a bill of exchange was given for the goods, or where part payment has been made him. (1)

Where, however, the seller takes a bill or note when he might have had the money, or where payment is made to his authorized agent who does not pay over, or where he sends the goods in payment of a loan or balance due from him, he has no such right. (2)

Where the purchaser fails to perform his part of the contract, but is not bankrupt or insolvent, there is no right of *stoppage in transitu*. (3) It is, however, merely necessary to prove that the purchaser is in embarrassed circumstances, not that he has assigned or been adjudged a bankrupt. (4)

A bill of lading, which makes the goods deliverable to the "seller or assigns," or "to order or assigns," keeps the control of the goods in the seller's power and is not transferable until endorsed. (5)

Where a bill of lading is in the purchaser's hands and is transferable the seller still has the right of *stoppage in transitu* as against

the original purchaser, but the moment the bill is transferred to a bona fide holder for value his right is gone. (6)

A bill is transferrable when the consignee's name is mentioned in the body of the bill as the person to whom the goods are to be delivered, or it is endorsed in blank, or specially endorsed in favor of the purchaser, and in any of such cases the seller has the right of *stoppage in transitu* so long as the bill of lading remains in the hands of the purchaser. (7)

Where a conditional endorsement be made by the seller, a second holder takes it from the original purchaser subject to such endorsement. (8)

STOPPAGE IN TRANSITU—UNDER WHAT CIRCUMSTANCES.

Where a bill of lading is endorsed in blank or specially, but delivered to the purchaser conditionally, a bona fide purchaser without notice only takes the rights the original holder possessed. (9)

Where a second holder takes a bill of lading for the purpose of fraudulently preventing the seller getting his rights connected therewith, such holder stands in the same position as the first holder. (10)

An old debt due to the assignee by the purchaser is not sufficient consideration to take away a sellers' right of stoppage. (11)

A mortgage of the goods or a pledge thereof by the purchaser does not take away the seller's right of stoppage; (12) neither does the carrier's lien on the goods as against the purchaser (13); nor the fact that the goods have been seized under a foreign attachment. (14)

The purchaser's transfer of a shipping note, or delivery order, to a third person for value (15); or the endorsement of the bill of lading for value to one with notice of the endorsers involved circumstances will not take away the right of *stoppage in transitu*. (16)

Stoppage in Transitu must be of the goods while *in transitu*. The transit commences the moment the goods leave the possession of the seller, and ceases the moment the goods reach the possession of the purchaser. Such possession may be either actual or constructive.

The possession of the purchaser must be with the consent of the seller, and it is often a most difficult question to decide whether such

consent was given, and whether the possession of the purchaser was to be absolutely or conditionally, especially where the goods in question have not been moved from their first position, and the intention of the parties is, of course, on what the whole question depends. (17)

It is a general rule that so long as anything remains to be done in order to put the goods in a condition for delivery, or to ascertain by quantity the goods to be delivered, possession cannot have been transferred.

Where a warehouse man receives an order to weigh or measure certain goods and deliver them to the purchaser, the mere transfer in the warehouse man's books is not sufficient to transfer possession to the purchaser, the goods must be first weighed or measured according to the delivery order. (18)

Where, however, the weighing or measuring is merely for the purchaser's convenience, it is not a condition precedent to the transfer of the possession. (19)

Where goods are on board a ship, they are in reality out of the possession of the seller, but by the conditions in the bill of lading the seller may still control the goods until certain conditions in the bill are fulfilled; and such is the case even where the ship belongs to the purchaser, as the seller may appoint the captain his agent in the matter. (20)

Where the goods are received on board a vessel, chartered by the purchaser, the bill of lading deliverable to order being endorsed to him and a bill of exchange for the goods, accepted by the purchaser, the seller nevertheless has his right of stoppage in transitu. (21)

When the master or mate refuses to sign a receipt or a bill of lading, as required by the seller, the latter's right of stoppage still remains. (22)

A delivery once complete cannot be changed by the seller, even where he fraudulently obtains a different bill of lading from the master. (23)

A seller may give up possession of part and still retain his right of stoppage over the balance. (24)

Possession, however, of part taken and intended as an act of ownership over the whole, is possession of the whole, if the whole could have been taken at the same time. (25)

Where the goods reach the possession of the purchaser's agent under the purchaser's intention to take entire possession of them, either expressed in the transaction in question or shown by usage in similar matters, the seller's right of stoppage is at an end, if he had consented to such possession. Therefore, where a carrier or warehouse man receives goods not for the purpose of forwarding them to their destination, but as an agent of the purchaser and to be subject to his order, the right of stoppage is gone. (26)

Where the purchaser takes the goods from the carrier before the end of the voyage the right of stoppage is gone, but if without the consent of the seller, the latter has his action against the purchaser for the wrong. (27)

Where the purchaser sends his own vessel for the goods his possession begins the instant he receives the goods on board, unless it was expressly stipulated otherwise by the seller, and this would be the case where the ship was chartered by the purchaser and was under his full command and charge as owner (28). It is otherwise, however, where the ship sent by the purchaser was merely chartered to carry the goods and was not in command of the purchaser. (29)

Stoppage in Transitu may be exercised after the voyage is at an end, as where goods are delayed or seized for non-payment of duties, etc., the seller may exercise his right if the purchaser has not in the meantime paid the duty and demanded the goods (30)

An agent or carrier has as such no power to detain or delay the goods so as to change the interest of any of the parties. (31)

Where the purchaser has not the opportunity at the moment to receive the goods he may make a new contract with the carrier to hold the same for him as his agent for a consideration, but the carrier may refuse to do so, and in such case the seller's right is good until the cargo is delivered. (32)

Where the goods are not ready to be delivered there must be an order to stop their progress or change their journey by the purchaser,

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and the carrier must consent thereto to take away the seller's right of stoppage.

Where the goods are ready for delivery a mere demand and tender of the freight takes away the seller's right to stoppage, provided there is no other lien on the goods.

## STOPPAGE IN TRANSITU—WHO MAY EXERCISE.

Stoppage in Transitu is a right belonging exclusively to the seller of goods for the price thereof. (33)

A mere surety for the price of goods has no right to stoppage. (34)

A stoppage *in transitu* may be made by notice to the person in custody of the goods. (35)

A notice to be valid must be placed in the hands of the person who is capable of controlling or is in the actual possession of the goods. (36)

A notice to be good must be given with the authority of the seller, but where it is given otherwise but is afterwards confirmed by him before it is too late to stop the goods *in transitu* it is valid. (37)

Where the notice is given to a ship-owner he is bound to use all reasonable diligence to have it reach the person in actual possession of the goods, if he is not so himself at the time. (38)

Where a carrier receives notice in time, not to deliver the goods and he does deliver them, he is liable in trover. (39)

A person stopping goods in transitu is only entitled to have them in the condition in which they were stopped. (40)

## NOTES.

(1) *Inglis v. Usherwood*, 1 East 515; *Bohtlingk v. Inglis*, 3 East 381; *Hodgson v. Lay*, 7 T. R. 440; *Feis v. Wray*, 3 East 93; *Patten v. Thompson*, 5 M. and Sel. 350; *Berndston v. Strong*, L. R. 3 Ch. 588.

(2) *Strong v. Hart*, 6 B. and C. 169; *Lichfield Union v. Greene*, 1 H. and N. 884; *Robinson v. Hawksford*, 9 Q. B. 52; *Bunney v. Poyntz*, 4 B. and Ad. 568; *Vertue v. Jewell*, 4 Camp. 31; *Patten v. Thompson*, 5 M. and S. 350; *Haille v. Smith*, 1 B. and P. 563.

(3) *Wilmshurst v. Bowker*, 7 M. and Gr. 882; *Walley v. Montgomery*, 3 East 585.

- (4) *James v. Griffin*, 2 M. and W. 622; *Edwards v. Brewer*, 2 M. and W. 375; *Mills v. Ball*, 2 B. and P. 457.
- (5) *Cox v. Harden*, 4 East 211; *Brandit v. Bowlby*, 2 B. and Ad. 932; *Nitchell v. Ede*, 11 A. and D. 888.
- (6) *Lickbarrow v. Mason*, 2 T. R. 63; 1 H. Bl. 357; 5 T. R. 367, 683; 6 East 20 Note; *Cunning v. Brown*, 9 East 506; *Gurney v. Behrend*, 3 E. and B. 622; *Key v. Coteswath*, 7 Exch. 595; *The Argentina*, L. R. 1 Ad. 370.
- (7) *Jenkyns v. Usborne*, 7 M. and Gr. 678; *Wait v. Baker*, 2 Exch. 1.
- (8) *Barrow v. Coles*, 3 Camp. 92; *Mitchell v. Ede*, 11 A. and E. 888.
- (9) *Key v. Cotesworth*, 7 Exch. 595; *Gurney v. Behrend*, 3 E. and B. 622; 18 and 19 Viet. C. 111 S. 1, 2.
- (10) *Cuming v. Brown*, 9 East 506, 514; *Coxe v. Harden*, 4 East 211; *Walley v. Montgomery*, 3 East 585.
- (11) *Rodger v. Comptoir, D'Escompte de. Paris*; L. R. 2 P. C. 393.
- (12) *Coventry v. Gladstone*, L. R. 6 Eq. 44; *Re. West Zinthus*, 5 B. and Ad. 817; *Spalding v. Ruding*, 6 Beav. 376.
- (13) *Oppenheim v. Russel*, 1 N. R. 42.
- (14) *Smith v. Goss*, 1 Camp. 282.
- (15) *Akerman v. Humphery*, 1 C. and P. 53; *Jenkyns v. Usborne*, 7 M. and Gr. 678; *McEwan v. Smith*, 2 Ho. of Lds. 309.
- (16) *Roger v. the Comptoir D'Escompte de Paris*, L. R. 2 P. C. 393; *Vertue v. Jewell*, 4 Camp. 31.
- (17) *Benjamin on Sale*, 697; *Townley v. Crump*, 4 A. and E. 58; *Miles v. Gorton*, 2 Cr. and M. 504; *Lackington v. Atherton*, 8 Scott N. S. 38; *Lucas v. Dorian*, 7 Taunt 278; *Dixon v. Yates*, 7 B. and Ad. 313; *Blackburn on Sale*, 230; *Martineau v. Kitching*, L. R. 7 Q. B. 436; *Castle v. Playford*, L. R. 7 Ex. 98; *Furley v. Bates*, 33 L. J. (Ex.) 43; 2 H. and C. 200; *Moaker v. Nicolson*, 19 C. B. N. S. 290; 34 L. J. (C. P.) 273; *Ogg v. Shuter*, L. R. 10 C. P. 159.
- (18) *Bush v. Davis*, 2 M. and Sel. 397; *Hanson v. Meyer*, 6 East, 614; *Wallace v. Breeds*, 13 East 522; *Shepley v. Davis*, 5 Taunt 617.
- (19) *Swanwick v. Sothern*, 9 A. and E. 895.
- (20) *Bloxam v. Sanders*, 4 B. and C. 941; *Edwards v. Brewer*, 2 M. and W. 375; *Whitehead v. Anderson*, 9 M. and W. 518; *Ogle v. Atkinson*, 5 Taunt 759; *Bohtlingk v. Inglis*, 3 East 396; *Scotsmans v. L. and Y. R. Co.*, L. R. 2 Ch. 332; *Ellershaw v. Magniae*, 6 Exch. 570; *Van Casteel v. Booker*, 2 Exch. 69; *Wait v. Baker*, 2 Exch. 1; *Walley v. Montgomery*, 3 East 585; *Jenkyns v. Brown*, 19 L. J. (Q. B.) 286.
- (21) *Gibson v. Carruthers*, 8 M. and W. 321; *Schotsmans v. L. and Y. Ry. Co.*, L. R. 2 Ch. 332; *Berndston v. Strang*, L. R. 3 Ch. 588; *Bolton v. L. and Y. Ry. Co.*, L. R. 1 C. P. 431.
- (22) *Ruck v. Hatfield*, 5 B. and Ald. 632; *Schuster v. McKellar*, 7 E. and B. 704; *Cowasjee v. Thompson*, 5 Moore P. C. 165.

(23) Ogle v. Atkinson, 5 Taunt, 759; Schuster v. McKeller, 7 E. and B. 704.

(24) Dixon v. Yates, 5 B. and Ad. 313, 336; Bunney v. Poyntz, 4 B. and Ad. 508; Simmons v. Swift, 5 B. and C. 857; Stubby v. Hayward, 2 H. Bl. 504; Hammond v. Anderson, 1 B. and P. N. R. 69; Wentworth v. Outhwaite, 10 M. and W. 436; Janner v. Scovell, 14 M. and W. 28.

(25) Tanner v. Scovell, 14 M. and W. 28; Jones v. Jones, 8 M. and W. 431.

(26) Dixon v. Baldmen, 5 East, 175; Wentworth v. Outhwaite, 10 M. and W. 436; Leeds v. Wright, 3 B. and P. 320; Scott v. Peltit, 3 B. and P. 465; Allen v. Griffler 2 Cr. and J. 218; Rowe v. Pickford, 8 Taunt 83; Foster v. Frampton, 6 B. and C. 107; Whitehead v. Anderson, 9 M. and W. 518; Smith v. Gross, 1 Camp. 282; Coates v. Raiton, 6 B. and Cr. 422; Foster v. Frampton, 6 B. and Cr. 107; Jackson v. Nichol, 5 Bing. N. C. 508.

(27) Whitehead v. Anderson, 9 M. and W. 518, 534; Mills v. Ball, 2 B. and P. 457, 461; Oppenheim v. Russel, 3 B. and P. 42; Foster v. Frampton, 6 B. and C. 107; Wright v. Lawes, 4 Esp. 82; Sorensen v. the Queen, 11 Moore P. C. 141.

(28) Ogle v. Atkinson, 6 Taunt 759; Ellershaw v. Magniac, 6 Exch. 570; Turner v. T. T. of L. Docks (in error), 6 Exch. 543; Bohtlingk v. Inglis, 3 East 381; Berndston v. Strang, L. R. 3 Ch. 588.

(29) Bohtlingk v. Inglis, 3 East 381; Berndston v. Strang, L. R. 3 Ch. 588.

(30) Northey v. Feild, 2 Esp. 613; Nix v. Olive, T. T. 1805.

(31) Bohtlingk v. Inglis, 3 East, 381.

(32) Lucas v. Dorrien, 7 Taunt 278; Lackington v. Atherton, 8 Scott N. S. 38; Harman v. Anderson, 2 Camp. 243; Whitehead v. Anderson, 9 M. and W. 518.

(33) Bloxam v. Saunders, 4 B. and Cr. 941; Edwards v. Brewer, 2 M. and W. 375; Newsom v. Thornton, 6 East 17; Jenkyns v. Osborne, 7 M. and Gr. 678; Ferse v. Wray, 3 East 93; Tucker v. Humphrey, 4 Bing. 516; Ogle v. Atkinson, 5 Taunt 759; Ellershaw v. Magniac, 6 Exch. 570.

(34) Siffken v. Wray, 6 East 371; Gurney v. Behrend, 3 E. and B. 622; Jenkyns v. Osborne, 7 M. and Gr. 678; Bird v. Brown, 4 Exch. 786.

(35) Whitehead v. Anderson, 9 M. and W. 518; Jackson v. Nichol 5 Bing. N. C. 508; Bohtlingk v. Inglis, 3 East 381; Ellis v. Hunt, 3 T. R. 464.

(36) Bird v. Brown, 4 Exch. 786; Whitehead v. Anderson, 9 M. and W. 518; Litt v. Cowley, 7 Taunt 769.

(37) Whitehead v. Anderson, 9 M. and W. 518.

(38) Whitehead v. Anderson, 9 M. and W. 518; Litt v. Cowley, 7 Taunt 169.

(39) Wright v. Lawes, 4 Esp. 82; Ellis v. Hunt, 3 T. R. 466; Litt v. Cowley, 7 Taunt 169; Falk v. Fletcher, 34 L. J. (C. P.) 146.

(40) Berredston v. Strang, L. R. 3 Ch. 588; Falk v. Fletcher, 34 L. J. (C. P.) 146.

## CHAPTER IV.

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PART I.—COLLISIONS. PART II.—SALVAGE. PART III.—TOWAGE.  
PART IV.—PILOTS. PART V.—MARINE INSURANCE.

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## PART I.—COLLISIONS.

Where the master of a ship takes all such precautions as a man of ordinary prudence and skill, exercising reasonable foresight, would use to escape danger, his owners will not be responsible because he may have omitted some possible precaution which the event suggests he might have resorted to. (1)

A schooner close hauled on the starboard tack at night, saw the green light and two towing lights of a steam-tug three points on her port bow about a mile off. The schooner kept her luff. The tug had a fully laden ship in tow and was steaming against a head sea in open water, and she kept her course until too late to get out of the schooner's way and the tug and the schooner came into collision. It was held that the schooner was right in holding her course, and that the steam-tug was alone to blame. (2)

The owners of the ship claiming damages must prove that the other ship was in the wrong. (3)

Where there is a reasonable doubt as to which party is to blame, the loss must be borne by the party on whom it has fallen. (4)

The want of a proper look-out is a culpable neglect on board a ship, and will render her *prima facie* liable for damages caused alone by her. (5)

Where a ship receives or does damage on account of negligence or misconduct of those on board of another vessel, although no collision takes place, the latter vessel is liable for the damage. (6)



Where a collision is the result of inevitable accident, which it was impossible to avoid by ordinary skill, diligence and precaution, neither ship is liable. (7)

A ship in motion is bound to keep clear of a ship at anchor, and a ship in stays is considered as at anchor. (8)

Where two vessels are anchored close together there should be enough space left for each ship to swing. If not, it is a foul berth, and the ship last anchoring is liable for any damage.

A vessel which having performed her own duty comes into immediate danger of collision by the wrongful act of another, is not to be held liable if at that moment she uses a wrong manœuvre. (10)

Where one ship by improper management compels a second ship to do damage to a third vessel the first ship is liable for such damage. As for example: where a vessel was compelled by the improper navigation of the first of three barges to change her course so that she ran into and damaged one of the last barges of such tow, the first barge is liable for such damages. (11)

A steamer in a dense fog is bound to go as slow as it is possible for her to go and maintain steerage way. (12)

It has been held that in a dense fog a steam-vessel's duty is to anchor as soon as circumstances will permit. (13)

A steamer running in a fog at a moderate rate of speed hearing another steamer whistling, indicating that she was approaching, and was so near to her that if all was quiet they would have been within hailing distance, is bound to stop her engines and reverse them so as to stop her own motion, and she ought not to wait until they are within sight of each other. (14)

A steamer running in crowded waters in the day time ought to have a look-out forward besides the officer in charge, even in fine weather. (15)

A vessel close hauled, which is bound to keep her course, may luff as close to the wind as she can get so as not to lose her headway, and such luffing is not a change in her course which will render her liable for a collision with another vessel, whose duty it is to keep out of her way. (16)

Where two vessels are beating to windward in company on the same tack, the one ahead and a little to windward of the other. The leading vessel stood in as near as she could to a shoal and was then obliged to go about, but the other vessel kept her reach and the two collided. Held by the court that it was the fault of the second vessel, and that she must pay all damages, as she should have gone about when she saw the leading vessel do so. (17)

A port-tacked vessel in stays and helpless ought nevertheless to execute any practicable manœuvre in order to get out of the way of a starboard-tacked vessel; but a starboard-tacked vessel when aware of the helpless condition of a vessel, which by the ordinary rules of navigation ought to get out of her way, is bound to try any practicable measure which would tend to avoid a collision. (18)

A steam tug hove-to during fine weather in a fair way waiting for employment is bound to keep out of the way of sailing ships. (19)

Those in charge of a vessel aground at night in a navigable channel are bound to take proper means to warn others of her position. (20)

When a steamer coming up a river late at night after passing a schooner, also on her way up the river, took the ground, and whilst so aground was run into by the schooner, held that the steamer was to blame. (21)

Where two vessels are on the port tack, one to windward of the other, and sailing with the wind three or four points free, the other close hauled, it is the duty of the vessel to windward and with the wind free to take measures to keep out of the other's way. (22)

A steamer sighting a sailing vessel at a distance of two or three miles ought not, even if the lights of the sailing vessel are not visible, to take a course which will carry her across the bows of the sailing vessel; and where, on account of the sailing vessel's lights not being visible, her course cannot be ascertained by the steamer, it is the latter's duty to slacken speed and not adopt any decided manœuvre to avoid the sailing vessel until she ascertains her course. (23)

It is negligence on the part of a steamer to go at full speed under steam and sail before the wind whilst her smoke is blown over her

bows so as to obscure lights and to prevent her from seeing and from being seen by other ships approaching from an opposite direction, and it is the duty of a steamer approaching a steamer under such circumstances to slacken speed and not execute any manœuvre to get out of the way until she can ascertain the course of the steamer running before the wind. (24)

A steamer seeing lights close ahead of her, and being unable to make them out or the course of the vessel carrying them, should slacken speed until she ascertains the meaning of the lights or the course of the vessel carrying them, and so be able to get out of her way. (25)

Although a ship is under some circumstances bound to keep a look-out astern, and to show a light or to give a signal to another ship overtaking her and evidently unable to see her; nevertheless, where a steamer going at a high rate of speed in a fair way overtakes a sailing ship showing no light or signal, and does not see her until too near to avoid a collision, although keeping a good look-out, the steamer will be held alone to blame if by a slower rate of speed the steamer could have prevented the collision after sighting the vessel. For example: where on a dark morning before day break in October a small schooner with a crew of four men was beating up into a harbor, when she was run into from astern by a large paddle-wheel steamer, entering the harbor at a speed of about twelve miles an hour, it was held by the court that the steamer was to blame for entering the harbor at too great a speed. (26)

A vessel, unless there is apparent danger, is not guilty of negligence in not showing a light to a vessel following her. (27)

As a general rule the proper signal to be used at night in apprising another vessel of the proximity of the one signalling should be a flare or torch.

A vessel at anchor on a dark night is bound to keep a light always visible, and it is no excuse that the light had been taken down for the moment to be trimmed. (28)

The law administered by the Admiralty Courts of Great Britain and the United States relating to all rules of navigation, and rules

concerning lights and look-outs in cases of collision on the *high seas* is the same. (29)

An error of judgment on the part of the master of a vessel at a moment of great difficulty and danger will not amount to such a wrongful act or default as will justify the suspension or cancellation of the master's certificate. (30)

Where, on investigation by a Wreck Commissioner, the loss of a British ship was found to be due to certain improper ballast taken on board, which being converted into mud by mixing with the water, made by the ship during the voyage, so choked the pumps that they could not be worked and the vessel foundered. The master's certificate was suspended for three months. (31)

A collision between two vessels, in which one or both of them are to blame, without the waves, or wind, or difficulty of navigation contributing to the accident, is not a "peril of the sea," as meant in the Exception Clause in a bill of lading. (32)

Where a collision or accident is caused by the fault or negligence of the master he is liable to his owners for the damages. (33)

Where two vessels are in collision and are entangled together in a position dangerous to both, salvors, who, by towing one of the vessels clear free both vessels from danger, are entitled to recover salvage reward from the owners of both vessels. (34)

Where a cargo is damaged by water being cast upon it by the captain's orders to put out a fire in the ship's hold, the owner of the cargo injured is entitled to a general average contribution from the ship, even where the latter is tied to the dock at the time. (35)

Claims allowed by the court against a ship for damages, caused by collision, come in ahead of the seamen's claims for wages. (36)

The rule that a ship being overtaken by another shall show from her stern a light, is not complied with by the fact that the binnacle light shows astern. (37)

Where a vessel is sunk in a place frequented by ships, her master should send word to the Harbor Master or nearest authorities and see that the wreck is lighted. (38)

A sailing ship in a gale drove from her anchors across a sand bar, and her rudder was so injured as to render the ship unmanageable, in which condition she came into collision after sunset with a brig at anchor; at the time of the collision the ship had only her anchor light exhibited. Held by the court that the collision was caused by inevitable accident, and that under the circumstances the ship was not in fault, (39)

A vessel at anchor in the track of a vessel about to be launched is bound to get out of the way of the launch, if she has had warning of same in due time and opportunity of moving, [such as a tug offering and being ready to tow her out of the way. (40)

A fishing smack which goes out in the open sea and only uses oars occasionally when the wind is light is held to be a ship within the "Merchants' Shipping Act," although not required to be registered. (41)

A brig by the negligence of those on board her, collided with a bark in January about 5 a.m. off the Lizard. In the collision the main rigging of the bark was carried away, and shortly afterwards her fore and main masts went by the board. Towards evening the wind increased in violence, and about 2 a.m. the next morning the bark was driven on shore and some of her crew drowned. Held that the loss of life was occasioned by the collision. (42)

A ship under the entire control and management of her charterers is liable for damage done to another ship by the negligence of her crew, although they are the charterer's employees. (43)

A maritime lien for damages, caused by a collision, follows the ship causing the damage, into whosoever hands she may go, and can be enforced at any time, provided there has been no improper delay in enforcing such lien. (44)

An inevitable accident is one which could not have been prevented by the exercise of ordinary care, caution and maritime skill. (45)

The owners of a vessel are not liable for damage caused to another vessel in a collision occasioned by the sudden breaking down of an apparatus in which there was an inherent latent defect, in the absence of any negligence in the user of the apparatus. (46)

The master and crew of a vessel injured by collision are bound to shew ordinary courage and nautical skill in endeavouring to save their vessel from total loss and the other ship although to blame for the collision will not be liable for any loss which might have been avoided by the exercise of such ordinary skill and courage. (47)

Where a vessel not carrying the proper lights collides with another, it must be shown that the accident was in some degree brought about by such neglect before any great weight can attach to the point. If both vessels are to blame the loss is shared pro rata. (48)

To enable a vessel lost or injured by collision to recover damages it must appear that the accident was not in any way owing to the negligence, misconduct or want of skill on the part of those navigating such vessel. (49)

Stratton v. Chaffey et al, 27 Q. B. 515, was as follows: A schooner while approaching Presquille harbour in a heavy sea and wind became unmanageable and grounded on the north side of the channel, the wind being southerly, a tug with a raft ran in soon afterwards, keeping as near the south side of the channel as she could and going at a fair speed, the raft, however, was driven against and sank the schooner. The tug captain did not know the schooner was aground and he could not have stopped, shortened his tow-rope or slackened speed without risking the loss of the raft. The schooner contended the tug had broken article 16 of sec. 2 of 27, 28 Vict. chap. 13, which enacts "*that every steamship when approaching another ship, so as to involve risk of collision, shall slacken her speed.*" The court however held that it came under article 19, which enacts "*that in obeying the rules regard shall be had to all dangers of navigation, and to any special circumstances rendering a deviation from them necessary to avoid immediate danger;*" that it was a question for the jury under all the circumstances to say whether the tug had been guilty of negligence and that the evidence warranted a verdict that she had not.

In an action for collision it appeared both vessels were beating to windward close-hauled, one on the starboard tack and the other on the port tack, the latter it was admitted did what was best as soon as she saw the former's lights but the complaint was that she should

have seen them sooner. This was explained by a statement that there was a haze on the water at the time. The court directed that if those on the vessel on the port tack used every means in their power to prevent a collision after they saw the lights they would not be liable, nor if they believed it was simply an accident without negligence on the defendant's part. (50)

On the 27th April 1880, the schooner *M. C. Upper* was moored at the west side of the dock at Port Kingsville, on Lake Erie, and had her anchor dropped some distance straight out from the east side of the dock, and without a buoy on same. The steamer "*Erie Belle*" came into the east side of the wharf safely, and in backing out she ran foul of the anchor of the "*Upper*." The crew of the latter were hauling on the cable attached to the anchor all the time the *Erie Belle* was there. The court found that it was not customary for vessels to buoy their anchors, as propellers were liable to get the buoys in their wheels, but that the anchor should be straight out from the side of the dock the vessel was on so as not to crowd her on the dock when hauling out, but that in this case, as the crew of the "*Upper*" were hauling on the cable, the trend of same should have indicated the position of the anchor. It was also held that the *Erie Belle* should have backed out the way she went in.

The court decided that each was to blame, and divided the damage between them. Damages assessed at \$1,000.00, as the *Erie Belle* had to run ashore to prevent foundering. (51)

In *Brace v. The Union Forwarding Co.*, 32 Q. B. 43; action for damages occasioned by defendants' steamer breaking plaintiff's boom and scattering his logs. The plaintiff charged as negligence that the steamer came to within 150 yards of the boom before slackening speed, and then did not reverse her engine. The defendants showed that they had sent notice to the plaintiff the night before, that the boat would be down next day, being the 15th April, and the first trip of the season; that it was the custom to have the boom open for her without keeping her waiting, which she could not safely do, as there was a rapid just below; that when the accident happened the plaintiff was controlling the boom with a rope, instead of letting it swing open freely, and that until the boat came in sight—half a mile off—the plaintiff did not begin to get the rope ready to sink it

under the vessel by putting a chain on it. Held that there was at least contributory negligence on the plaintiff's part, if, indeed the whole blame was not his, and that he was not entitled to damages.

In case of a collision the owner of the vessel not in fault can recover from the other vessel for goods on board not owned by him but in his charge as a carrier. (52)

When a railway company has control of a swing bridge over a canal and the requirements of their traffic compelled the bridge to be closed while trains were crossing, the company is not bound to open the bridge then, and is not liable for injury caused to a vessel running into the bridge, although the vessel gave notice of her approach. (53)

A ship owner whose vessel has been injured by collision is entitled to the cost of repairing his vessel, to damages for the permanent injury done to her, and also to the wages of his crew necessarily kept over during the repairs, and also for the costs of repairs done by his crew; but is not entitled to the sum paid by him for another vessel to take the place of his own while repairing, nor is he entitled to the profits his vessel would have earned if not laid up for repairs. (54)

When at night a mast-head light is seen but no side lights, it is an indication that the light is that of a steamer whose side lights are obscured by fog. (55)

It is wrong to port the helm when a collision is apprehended and the other ship is on the starboard bow. (56)

Where a ship in ballast is proceeding under charter to the port of loading and is run into by and through the fault of another ship, and is delayed by her injuries so long as to lose her charter, the loss of the freight will be held to be a loss occasioned by the collision. (57)

Where ship "A" collides with and damages ship "B," but the accident was wholly brought about by the bad manœuvring of ship "C," the latter must be sued for the damage. (58)

In every collision it is the duty of the master or person in charge of each vessel to stay by the other vessel until he finds she has no

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need of further assistance, provided he can do so without danger to his own vessel, crew and passengers, if any.

The master of a ship in collision is bound, if asked, to give the name and port of register of his vessel and the port from and to which ~~she~~ is bound.

The breaking of any of the above laws being a crime.

The amount of damages to be allowed in case of accident is the amount of the injury sustained, nothing being taken off for new work as in the case of insurance. (59)

#### WRECK.

The term wreck includes Jetsam and Flotsam, Ligan and Derelict. For the meaning of these terms see vocabulary at the end.

A person who is put in charge of a wreck by the captain or owner, and who expends money in saving part of the property or cargo at risk, has a lien on what is saved for his charges. (60)

#### NOTES.

(1) *Doward v. Lindsay*, the *William Lindsay*; 5 L. R. P. C. 338; 29 L. T. 355; 22 W. R. 6; the *Tyne S. S. Co. v. Smith*, the *C. M. Palmer and Lamax* 39 L. T. 120; 21 W. R. 702, P. C.

(2) *The Warrior*, 3 L. R. Adm. 553; 27 L. T. 101; 21 W. R. 82.

(3) *Kay on Masters' and Seamen*, 905.

(4) *Kay on Masters' and Seamen*, 905.

(5) *Kay on Masters' and Seamen*, 906; *The Indiana*, 1 Abb. 330 (Am.)

(6) *The Industrie*, L. R. 3 Adm. 303; *Fay M. and S.* 906.

(7) *Holts' rule of the Road*, 263; *Kay M. and S.* 912.

(8) *The Egyptian*, 1 Moo. P. C. N. S. 373; *Kay on M. and S.* 988; *The Sea Nymph*, Lush 23.

(9) *The Lochlibo*, 7 Moo. P. C. 427; *The Northampton*, 1 Spinks 160; *The Maggie Armstrong*, 14 L. T. N. S. 340; *Kay on M. and S.* 988.

(10) *The Nor.*, 30 L. T. 576 P. C.; *The Bywell Castle*, 4 P. D. 219; 41 L. T. 747; 28 W. R. 293, C. A.

(11) *The Bywell Castle*, 4 P. D. 219; 41 L. T. 747.

(12) *The Pennsylvania*, 23 L. T. 55, P. C.; *The S. S. Westphalia*, 24 L. T. 75—U. S. N. Y.

(13) *The Otter*, 4 L. R. Adm. 203; 30 L. T. 43; 22 W. R. 557.

(14) *Morton v. Hutchinson, the Frankland and the Kestral*, 4 L. R. P. C. C. 529; 27 L. T. 633; 9 Moore P. C. C. N. S. 365.

(15) *The Glanibanta, the Transit*, 1 Adm. D. 283; 34 L. T. 9, 35; 24 W. R. 1033, C. A.

(16) *The Marmion*, 27 L. T. 255—P. C.; *The Aimor, the Amelia*, 29 L. T. 118; 21 W. R. 707—P. C.

(17) *The Priscilla*, 3 L. R. Adm. 125; 23 L. T. 566.

(18) *Wilken v. Can. Ship Co.*, 2 App. Case 389; *The Lake St. Clair v. the Underwriter*, 36 L. T. 155—P. C.

(19) *The Jennie S. Barker, the Spindrift*; 4 L. R. Adm. 456; 44 L. J. Adm. 20; 33 L. T. 318.

(20) *The Industry*, 3 L. R. Adm. 303; 40 L. J. Adm. 26; 24 L. T. 446; 19 W. R. 728; *The Thomas Lee*, 35 L. T. 406—Adm.

(21) *The Elizabeth, the Adalia*, 22 L. T. 74. Adm.

(22) *The Franconia*, 2 Adm. D. 8; 35 L. T. 721; 25 W. R. 197—C. A.; *The Peckforten Castle*, 3 Adm. D. 11; 26 W. R. 346—C. A.

(23) *The Bongainville and the James, C. Stevenson*, 5 L. R. P. C. 316; 28 L. J. 822; 21 W. R. 653.

(24) *The Rona, the Ava*, 29 L. T. 781—P. C.

(25) *The Fanny M. Carville and the Peru*, 44 L. J. Adm 34; 32 L. T. 646; 24 W. R. 62—P. C.

(26) *The Earl Spencer*, 33 L. T. 235—P. C.

(27) *The City of Brooklyn*, 1 Adm. D. 276; 24 W. R. 1056—C. A.

(28) *Tyne S. S. Co. v. Smith, the C. M. Palmer and the Larnax*, 29 L. T. 120; 21 W. R. 702—P. C.

(29) *The Nevada*, 27 L. T. 720—N. S. W. v. A. C.

(30) *The Famenoth*, 7 P. D. 207; 48 L. T. 28; 5 Asp. M. C. 35—D.

(31) *The Golden Sea*, 7 P. D. 194; 51 L. J. P. 64; 47 L. T. 579; 30 W. R. 842; 5 Asp. M. C. 23—D.

(32) *Woadley v. Mitchell*, 11 Q. B. D. 47; 52 L. J. Q. B. 325; 48 L. T. 599; 31 W. R. 651.

(33) *The Cricket, the Endeavour*, 48 L. T. 535; 5 Asp. M. C. 53—D.

(34) *The Vandyck*, 7 P. D. 42—D.; 47 L. T. 695; 5 Asp. M. C. 17—C. A.

(35) *White Cross Wire Co. v. Saville*, 8 Q. B. D. 653; 51 L. J. Q. B. 426; 46 L. T. 643; 30 W. R. 588.

(36) *The Elin*, 8 P. D. 39—129; 51 L. J. P. 77—D.; 49 L. T. 87; 31 W. R. 736—C. A.

(37) *The Breadalbane*, 7 P. D. 186; 46 L. T. 204; 4 Asp. M. C. 503—D.

(38) *The Douglass*, 7 P. D. 151; 51 L. J. P. 89; 47 L. T. 502.

- (39) *The Buckhurst*, 6 P. D. 152; 51 L. J. P. 10; 46 L. T. 108; 30 W. R. 232.
- (40) *The Cachapool*, 7 P. D. 217; 46 L. T. 171; 4 Asp. M. C. 502—D.
- (41) *Ferguson or Hutchinson, Exparte*, 6 L. R. Q. B. 280; 40 L. J. Q. B. 105; 19 W. R. 746.
- (42) *The George v. Richard*, 3 L. R. Adm. 466; 24 L. T. 717.
- (43) *The Lymington*, 32 L. T. 69; 23 W. R. 421 Adm.
- (44) *Dean v. Richards, the Europa*, 2 Moore P. C. C. N. S. 1.
- (45) *The Calcutta*, L. T. 768—P. C.; *The Marpesia*, 4 L. R. P. C. 212; 26 L. T. 333; 8 Moore P. C. C., N. S. 468; *The Secret*, 26 L. T. 670—Tr. Adm.; *The Pladda*, 2 Adm. D. 34; 46 L. J. Adm. 61.
- (46) *The Virgo*, 35 L. T. 519; 25 W. R. 397—Adm.
- (47) *The Thuringia*, 41 L. J. Adm. 44; 26 L. T. 446.
- (48) *Gildersleeve v. Bonter et al*, 12 Q. B. 489; *Irving v. Hagerman et al* 22 Q. B. 545; *Downey v. Patterson*, 38 Q. B. 513.
- (49) *Eberts et al v. Smythe et al*, 3 Q. B. 189.
- (50) *Downey et al v. Patterson*, 38 Q. B. 513.
- (51) *McCallum v. Odette*, 7 S. C. R. 36.
- (52) *Irving v. Hagerman et al*, 22 Q. B. 545.
- (53) *Turner v. G. W. R. Co.*, 6 C. P. 536.
- (54) *Brown v. Beatty et al*, 35 Q. B. 328; *Sutherland et al v. Bethune*, 10 Q. B. 388.
- (55) *The Milanese*, 45 L. T. 151; 4 Asp. M. C. 438—H. L. (E.)
- (56) *The Bywell Castle*, 4 P. D. 219; 41 L. T. 747; 28 W. R. 293—C. A.
- (57) *The Consett*, 5 P. D. 229.
- (58) *The Sisters*, 1 Prob. Div. 117.
- (59) *The Gazelle*, Hurst 2 W. Rob. 279; *The Matchless*, 10 Jur. 1017; *The Clarence*, 3 W. Rob. Ad. 283; *The Betsey Caines*, Wilson 2 Hagg. 28; *The Yorkshireman*, Forman 2 Hagg. Ad. 30 N.; *The Black Prince*, Lush. Ad. 568; *The Mellona*, 1 Beale 3 W. Rob. Ad. 7.
- (60) *Hingston v. Wendt*, 1 Q. B. D. 367; 45 L. J. Q. B. 440; 34 L. T. 181; 24 W. R. 664.

## CHAPTER IV.

## PART II.

## SALVAGE.

Salvage is the service which volunteer adventurers, of their own accord, render to the owners in the rescue of property from loss or damage at sea, there being no legal duty or contract to give the services, and they are bound to restore the goods to the owners, first having a lien for their reward. (1)

It is the duty of all ships to give aid to others in distress if possible. (2)

The crew as such cannot become salvors, as it is their agreed duty to protect the ship through all dangers, to the extent of their entire possible services, but where a merchant vessel is for the purpose of saving life bona fide abandoned at sea by the order of the captain, in consequence of damages received, the seaman's contract is at an end, and he can then become a salvor. (3)

The case of the ship *Le Blaireau*, as cited in an American case, is worthy of mention. The ship collided with a Spanish sixty-four gun ship about 10 o'clock at night, and was damaged so seriously that before day-light there was three and a half feet of water in the hold, and the crew abandoning her went aboard the Spanish vessel save one, an Irishman. He clearing away the wreck, partially lightened the vessel, and putting her before the wind, hoisted a signal of distress, in consequence of which the *Le Blaireau* was picked up by an American and carried into port. The Irishman's claim as a salvor was allowed by the Supreme Court of the United States, although resisted by the owner of the vessel. (4)

Capture by an enemy discharges the crew from their duty to their employers, so that in case of recapture by the sailors they are considered as salvors. (5)

The crew of a vessel are bound to defend or rescue her from mutineers, and consequently cannot claim as salvors for such services. (6)

A passenger is bound to render all the assistance he can to the ship he is on, and cannot for such assistance claim salvage, but he is allowed to seize the first opportunity of leaving the ship if his life is in danger. Where, however, a passenger renders services of an extra quality he may be allowed to claim as a salvor. (7)

Where a vessel struck on Chichester rocks, and the master and part of the crew abandoned her in a small boat leaving the pilot on board drunk, and one of the passengers taking charge of the vessel carried her safely into port, he was allowed salvage. (8)

A pilot while in charge of a vessel is not entitled to salvage except in a very exceptional case, but if not already engaged he is not bound to pilot a vessel in distress at ordinary rates. (9)

A tug is not bound to render assistance to a vessel in distress at ordinary towing rates, but if while towing a vessel circumstances arise of so dangerous a nature that would justify the tug to let go for her own safety, and she still holds on and saves the ship she is entitled to salvage. (10)

The large amounts that were formerly allowed for salvage are not now given, and in all cases the courts take into consideration the circumstances of the case and the real value of the services rendered. Where parties are under contract and legally bound to do services of the kind given, the court will only allow for extraordinary services what the encouragement of enterprise really requires. (11)

The right to salvage as a rule depends on personal service, and a person who merely hired and sent laborers to unload a ship, or one of a ship's crew who refused to volunteer, was not allowed salvage. (12)

Where a whole ship's crew volunteer to go on salvage duty the court will allow those who were compelled to stay behind to manage their own ship, a share in the salvage money, taking, however, into consideration that those who really encountered the dangers are entitled to a larger share. (13)

Salvors who have taken charge of a derelict [*i. e.*, an abandoned vessel] have a right to refuse any assistance from others. (14)

However, where a derelict is found in charge of salvors who have not sufficient powers or means to successfully rescue the vessel, others will be justified in assisting them, and the court will divide the salvage money with due regard to the rights of the first on board, as well as of the services rendered by all. (15)

Salvors who go on board a ship in distress but not wholly abandoned, must do so under the permission of those in charge; but when the latter dismiss those aiding them without cause before the rescue is complete, the salvors will be entitled to what they would have been, if they had remained on board. (16)

A vessel owner or master cannot claim salvage earned by his apprentice or crew, even if so expressly agreed between them, as salvage is payable only to the salvor or his personal representatives. (17)

This rule does not apply to cases where a man ships on board a vessel with the understanding that she is to be or may be employed as a wrecker on salvage duty, the crew being then only entitled to the wages agreed on. (18)

The master or owner has no power to bind the crew, without their consent by a previous agreement, or after settlement for salvage services. (18 *a*)

Owners of vessels receiving actual loss or running risks in salvage services are entitled to salvage for same, as well as the expenses incurred; and charterers who have charge of and sail a vessel on their own responsibility stand in the owner's place in this respect (19); but ordinary charterers are not so entitled to salvage unless so agreed with the owners. (20)

The Crown is not entitled to salvage or any claim for loss, damage or risk caused to any Crown vessel or to the stores, tackle or furniture thereof, or for the use of any stores or other articles belonging to the Crown used on salvage duty, or for any other expense or loss sustained by the Crown by reason of such services. (21) This clause does not, however, seem to exclude the seamen on Crown

vessels from being entitled to salvage for meritorious personal services as salvors.

Salvage being a reward for saving property or life, the service must be successful to entitle any one to salvage. (22) Where, however, salvors after partially releasing a vessel are forced to abandon her for the time being by the severity of the elements, but return the first available opportunity only to find her in charge of another set of salvors, who take her into port, the first set of salvors will be entitled to part of the reward for their services rendered. (23)

A usage of a certain trade or a general agreement among the vessels concerned to render mutual assistance to the extent actually given may bar salvage claims, except where it is extraordinary in its nature. (24)

Where the parties agree for a certain sum to render the assistance actually given they are bound by the contract (25); but a party, claiming under such agreement, must prove the bargain and that it was a just one, no unfair advantage of ignorance being taken. (26)

Where a salvor, under a mistaken idea as to the value of his services, takes a sum much too small in payment and gives a receipt in full, he is not bound by it, and the court will reward him the proper amount. (27)

The court in estimating the amount of salvage will take into consideration the conduct of the salvors throughout the entire transaction, and lessen the amount in case of misconduct. (28)

Where the services are not as successful as they should have been, taking into consideration the degree of skill and knowledge suitable to the station in life of the rescuers, the salvage given will be in proportion to the success. (29)

By felonious or fraudulent dealing with the property saved the salvors forfeit their rights for salvage for successful and valuable services. (30)

Claims for salvage should be prosecuted without unnecessary

delay, as otherwise the claims may be dismissed if the delay is unexplained. (31)

Sir John Nicholl says: "The ingredients of a salvage service are: First, enterprise in the salvors in going out in tempestuous weather to assist a vessel in distress, risking their own lives to save their fellow creatures, and to rescue the property of their fellow-subjects; secondly, the degree of danger and distress from which the property is rescued, whether it were in imminent peril and almost certainly lost, if not at the time rescued and preserved; thirdly, the degree of labor and skill which the salvors incur and display and the time occupied; lastly, the value." Where all the above circumstances occur a large and liberal reward should be given. (32)

Formerly a specific part of the property saved was given as a reward for the salvage services, but this rule is not now acted on. (33)

By the Merchant Shipping Act, 1854, amended by 24 Vict., c. 10, s. 9, The services performed in saving human life may be rewarded, as salvage services in respect of property are; and 25 and 26 Vict., c. 63, s. 59, enacts that: "Whenever it is made to appear to Her Majesty that the government of any foreign country is willing that salvage shall be awarded by British courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of British jurisdiction, Her Majesty may by order-in-council direct that the provisions of the principal Act and of this Act, with respect to salvage for services rendered in saving life from a British ship, shall in all British courts be held to apply to services rendered in saving life from the ships of such foreign country whether such services are rendered within British jurisdiction or not."

Salvage claims for the preservation of the lives of both the passengers and the crew come in ahead of all other claims for salvage. (34)

Salvage claims for the preservation of life are to be paid out of the ship or the cargo, and where these are insufficient or have been altogether lost the reward will have to go unpaid accordingly. (35)



An idea now prevails that there is no such thing as salvage, but this is wrong. The old rule that half or one-third of the property saved where abandoned was to be the salvor's reward being, done away with, must have been the cause of this.

For examples of the amount of salvage under the present law see the cases cited. (36)

Steamers are as a rule allowed very high rewards for salvage services, on account of their greater power, and also on account of their value, the value of the property engaged in the service being comparatively greater. (37)

The old salvage rule, as regards giving part of the property saved to the salvors as a reward, although not now law is nevertheless referred to in estimating salvage under the present law. The cases cited below being more or less examples of this. (38)

Goods found derelict [*i. e.*, entirely abandoned] on the sea belongs to the Crown in case of no owner appearing, the finder being only entitled to a lien for salvage. (39)

Where cargo on board a ship requires assistance to tranship it or remove it to a place of safety, the services rendered in doing so are in the nature of salvage services and are to be treated accordingly. (40)

Salvage claimants must prove their capacity to do salvage duty and the actual services rendered for which they claim salvage. (41)

The following goes to show that assistance rendered when the risk was over will not be treated as salvage :

The steamer City of Edinburgh was observed off Blakeney with a signal of distress at her mast-head during the 13th and 14th of January, during all of which time no attempt was made to reach her, but on the 15th the storm having moderated twenty boatmen boarded her, and taking advantage of the fair wind took her into port ; the court would not treat them as salvors, but allowed them £15 as pilotage. (42)

The lien given the salvor by the Law Maritime holds goods even during change of possession, or transfer, of property, but by undue delay or improper detention the salvor may lose his remedy and

even forfeit his rights as detention of the ship beyond what is needful for security is very prejudicial to his interests. (43)

Where the salvors agree to abandon their lien on the ship's cargo and property saved, the master may enter into a written agreement, signed by two witnesses, to stand by the decision of the courts and to give security to any amount agreed on, and such security will be binding on the ship, cargo and freight, their respective owners, their heirs and representatives for the salvage given by the courts. (44)

Where suit has been entered the ship or cargo may be released on bail being given or the money paid into court. (45)

An agent who is authorized by the master to take possession of the cargo of a ship at that time ashore, and to do whatever is necessary for its safety, has a lien on the cargo for his expenses, as being in the nature of salvage or general average. (46)

Where a vessel or tug goes out of her way to give information to a steam-tug of a vessel in distress, on account of which information the tug went after and rescued the vessel in distress, the vessel or tug giving the information is entitled to part of the salvage reward. (47)

Where a tug contracted to tow a ship into port for a certain sum, and during such towage a storm came on and both vessels were in extreme danger, being on a lee shore and the tug kept hold of her tow, though her bunkers were full, four pumps at work and the steam pressure above the regulation, the tug was held entitled to salvage besides her tow bill. (48)

One vessel rendering assistance to another which she has injured in collision has no claim to salvage if the collision occurred by her fault. (49)

In cases of salvage where both ships belong to the same owners, the master and crew of the rescuing ship are entitled to salvage if the services performed do not come under their original contract with the owners, and for which they would be paid by their ordinary wages. (50)

Where a ship sends men to aid a vessel in distress on account of not having sufficient hands to work her, and in consequence the first

ship is exposed to risk and the remainder of her crew had to put in extra work ; the court held that the men who went on board the ship in distress and the master, owner and the rest of the crew were all entitled to salvage. (51)

In some cases salvors who do all in their power to rescue a vessel in distress, but through no fault of their own their efforts are unsuccessful, they will be entitled to salvage when the vessel is finally saved by other means. (52)

Where a steam tug is engaged to work at a ship aground in the night-time and succeeds in getting her off and taking her to a safe anchorage, lies alongside of her till morning, the tug is entitled to reward for the time she so lies along side the ship ready to render further assistance if necessary unless otherwise agreed. (53)

Persons who take out during bad weather an anchor and chain to a vessel compelled to slip her chains to get away from a dangerous position, are entitled to salvage, although the anchor and chain are not needed. (54)

If first salvors, lawfully in possession of a derelict ship, are wrongfully and violently dispossessed by second salvors, who succeed in bringing the derelict into safety, the second salvors are not entitled to anything, but the whole reward will go to the benefit of the first salvors. (55)

It is presumed it would be otherwise where the ship in distress is very valuable and the second salvors are clearly aware that the first salvors are not able to make the rescue alone, in which case both would be entitled.

A charterer who takes entire control of and responsibility of a ship and crew, while in his service is entitled to all salvage earned by her during that time. (56)

Where in case of a collision between a steamer and a barque ; all the crew of the latter, excepting the mate, abandoned her and went aboard the steamer. The mate remained on board the barque and navigated her until she was taken in tow by a steam vessel, and the mate still assisting, was taken into a place of safety. The court held the mate entitled to part of the salvage. (57)

The commander and crew of a Queen's ship have the same rights to salvage as the master and crew of a merchant ship, but they cannot impose terms and refuse to give salvage services unless those terms are accepted. (58)

An assignment for value by a seaman of his right to salvage reward already earned is void by the "Merchant Shipping Act." (59)

When a ship is engaged to render assistance to another ship in distress without any fixed sum being agreed on and remains by ready to give assistance, she cannot be deprived of her right to reward by reason of another vessel offering and being engaged to tow for a less sum than the first ship is willing to accept, and she will be entitled to recover a fair sum which will pay her for the services rendered and loss sustained. (60)

The court will set aside a salvage agreement where it is exorbitant and far too large under the circumstances, and will award what is proper to the salvors. (61)

Salvors who by gross negligence and want of proper navigation damage property they are rescuing will be liable for such damage. (62)

Salvage reward ought to bear a proportion, not merely to the value of the property saved, but also to the nature of the salvage services. (63)

The contract to pay freight is dissolved by the abandonment of the ship, and where the ship is afterwards rescued and the cargo wholly or partly saved the ship-owners are not entitled to any freight thereon. (64)

#### NOTES.

(1) *The Thetis*, 3 Hagg. Ad. 14, 48; *the Neptune Clark*, 1 Hagg. Ad. 227; *the Waterloo Birch*, 2 Dods' Ad. 433.

(2) *The Waterloo, Birch*, 2 Dods' Ad. 433.

(3) *The Florence*, 16 Jur. 572; *the Warrior*, Lush. Ad. 376; *Le Jonet*, L. R. 3 Ad. 556; *Mason v. Le Blaireau*, 2 Cranch Rep. 239; *Hobart v. Droган*, 10 Peter's Rep. 108.

(4) *The Florence*, 16 Jur. 572; *the Warrior*, Lush. Ad. 376; *Le Jonet*, L. R. 3 Ad. 556; *Mason v. Le Blaireau*, 2 Cranch Rep. 239; *Hogart v. Droган*, 10 Peter's Rep. 108.

(5) *The Two Friends*, 1 C. Rob. Ad. 271.

(6) *The Governor*, Raffles, King, 2 Dods' Ad. 14, 17.

(7) *The Bramston*, Wilson, 2 Hagg. Ad.; *The Vrede*, Lush Ad. 322; *Boyer v. Baycliffe*, 1 Camp. 58; *the Salacia*, Garland, 2 Hagg. Ad. 262; *the Two Friends*, 1 C. Rob. Ad. 271; *Newman v. Walters*, 3 B. and P. 612.

(8) *Newman v. Walters*, 3 B. and P. 612.

(9) *The General Palmer*, Truscott, 2 Hagg. 176; *the Joseph Harvey*, Pad dock, 1 C. Rob. 306; *the Isabella*, Morno, 3 Hagg. 427; *the Reward*, Hogg, 1 W. Rob. Ad. 174; *the Frederick*, Thurman, 1 W. Rob. Ad. 16; *the Eliza beth*, 8 Jur. 365; *the Hebe*, Cole, 2 W. Rob. Ad. 246; *the Industry*, Davis, 3 Hagg. 203; *the Galatea*, 4 Jur. N. S. 1064.

(10) *Halsey v. Albartuszen*, 11 Moore P. C. 313; *the Jonge Andries*, 1 Swab. Ad. 220; *the J. C. Potter*, L. R. 3 Ad. 292; *the Albion*, Lush Ad. 282; *the Saratoga*, Lush Ad. 318.

(11) *The Aquila Lumsden*, 1 C. Rob. Ad. 37; *Cargo Ex Honor*, L. R. 1 Ad. 87; *the Happy Return*, Woolcock, 2 Hagg. Ad. 198, 205; *the Favorite*, Lam bert, 2 W. Robb Ad. 255; *the Purissima Conception*, 3 W. Robb. 181; *the Francis and Eliza*, 2 Dods' Ad. 115; *the Trelawney*, Lake, 1 C. Rob. Ad. 223.

(12) *The Thetis*, 3 Hagg. Ad. 14, 61; *the Vine*, Jay, 2 Hagg. Ad. 1; *the Watt*, 2 W. Rob. Ad. 70, 72; *the Lively*, Chickley, 3 W. Rob. Ad. 64; *the Baltimore*, Baker, 2 Dods' Ad. 1, 37.

(13) *The Sarah Jane*, 2 W. Rob. Ad. 110, 115; *the Mountaineer*, Heaton, 2 W. Rob. Ad. 7; *the Roe*, Swab. Ad. 84; *the Jane*, Hudson, 2 Hagg. Ad. 338, 343; *the Sarah Jane*, 2 W. Rob. Ad. 110, 115; *the Charles*, L. R. 3 Ad. 536.

(14) *The Eugene*, Bourne, 3 Hagg. Ad. 156; *the Effort*, Bourne 3 Hagg. 165.

(15) *The Maria*, Kilstrom, Edw. Ad. 175; *the Charlotta*, Nesser, 2 Hagg. Ad. 361; *the Eugene*, Bourne, 3 Hagg. Ad. 156; *the Blendenhall*, Barr, 1 Dods' Ad. 414; *the Effort*, 3 Hagg. Ad. 165; *the Queen Mab*, Tallman, 3 Hagg. Ad. 212; *the Clarisse Burn*, 1 Swab. Ad. 129, 132.

(16) *The Dantzic Packet*, Tanner, 3 Hagg. Ad. 383, 385; *the Black Boy*, Devey, 3 Hagg. 386 N.; *the Champion Br. & L.* Ad. 69; *the Glasgow Packet*, Nicoll, 2 W. Rob. Ad. 306.

(17) *The Two Friends*, 8 Jur. 10, 11; *the Columbine*, 2 W. Rob. Ad. 186, 17 and 18 Viet., c. 104, s. 182.

(18) 25 and 26 Viet., c. 63, s. 18; *the Pride of Canada*, Br. and Lush Ad. 208.

(18 a) *The Britain Allison*, 1 W. Rob. Ad. 40; *the Sarah Jane*, 2 W. Rob. Ad. 110, 115.

(19) *The Baltimore*, Baker 2 Dods' Ad. 132; *the Vine*, Jay, 2 Hagg. Ad. 1, 2; *the Salacia*, Garland, 2 Hagg. 262; *the Charles*, L. R. 3 Ad. 536; *the Jane*, Hudson, 2 Hagg. 338; *the Glengaber*, 2 Hagg. Ad. 531; *the Miranda*, L. R. 3 Ad. 561; *the Waterloo*, Birch 2 Dods' Ad. 433; *the Scout*, L. R. 3 Ad. 512.

(20) The Collier, L. R. 1 Ad. 83; the Baltimore Baker, 2 Dods' Ad. 132; the Alfen, Jacobsen, 1 Swab. Ad. 189.

(21) 17 and 18 Vict., c. 104, s. 484.

(22) The Edward Hawkins, Lush Ad. 515; the Zephyrus, Blake, 1 W. Rob. Ad. 330; the India, 1 W. Rob. Ad. 406.

(23) The Santifore, 1 Ecc. and Ad. 231; the Undaunted, Lush Ad. 90; the E. W., 1 Ecc. and Ad. Rep. 63.

(24) The Harriet, Soutrice, 1 W. Rob. Ad. 439; the Zephyr, Arrowamith, 2 Hagg. Ad. 43; the Swan, Dring, 1 W. Rob. Ad. 70.

(25) The Mulgrave, Garbutt, 2 Hagg. Ad. 77; the True Blue, Roberts, 2 W. Robb Ad. 176; the Betsy, Thompson, 2 W. Robb Ad. 167; the Jonge Andries, Steffens, 1 Swab Ad. 226; the Jan Hendrick, 1 Ecc. and Ad. Rep. 181; the Waverly, L. R. 3 Ad. 369.

(26) The Jan Hendrick, 1 Ecc. and Ad. 181; the British Empire, 6 Jur. 608; the True Blue, Roberts, 2 W. Rob. Ad. 176; the Salacia, Garland, 2 Hagg. Ad. 262; the Kingalock, 1 Ecc. and Ad. 263.

(27) The Enchantress, Lush Ad. 93; the Silver Bullion, 2 Ecc. and Ad. Rep. 70; the Jonge Bastian, 5 c. Rob. Ad. 322; the Earl Grey, 1 Ecc. and Ad. Rep. 180.

(28) The Glasgow Packet, Nicholl, 2 W. Rob. Ad. 306; the Dantzic Packet, Tanner, 3 Hagg. Ad. 383; the Duke of Manchester, 10 Jur. 863; the City of Edinburgh, Fraser, 2 Hagg. Ad. 333; the Perla, Audicochea, 1 Swab. Ad. 230; The Cargo Ex Copella, L. R. 1 Ad. 356; the Atlas, P. C. 31, L. J. (Ad.) 210; the Minnehaha, Lush. Ad. 335; the Lady Worsley, 2 Ecc. and Ad. Rep. 253.

(29) The Neptune, Fricker, 1 W. Rob. Ad. 297; the Lockwood, 9 Jur. 1017.

(30) The Wear Packet, 2 Ecc. and Ad. Rep. 256.

(31) The Swan, Dring, 1 W. Rob. Ad. 70; the Rapid, Cochrane, 3 Hagg. Ad. 419.

(32) The Clifton, Lighthody, 3 Hagg. Ad. 117, 120; the William Beckford, Muirhead, 3 C. Rob. Ad. 355; the Glenduror, L. R. 3 P. C. 598; the Thomas Blyth, Lush. Ad. 16.

(33) The Thetis, 3 Hagg. Ad. 14, 62; the Salacia Garland, 2 Hagg. Ad. 262; the Oscar, Loggren, 2 Hagg. Ad. 257; the Aquila, Lumsden, 1 C. Rob. Ad. 37, the Ewell Grove, Burton, 3 Hagg. Ad. 209, 221.

(34) The Fusilier, 34 L. J. (Ad.) 25; 17 and 18 Vict., c. 104, s. 459.

(35) The Norma, Lush Ad. 124; the Johannes, Lush Ad. 182.

(36) The Baltimore, Baker, 2 Dods' Ad. 132; the Salacia, Garland, 2 Hagg. Ad. 262; the Marquis of Huntly, Molisson, 3 Hagg. Ad. 246; the Albion, Turnbull, 3 Hagg. Ad. 254; the Jane, Hudson, 2 Hagg. Ad. 338; the Thetis, 3 Hagg. Ad. 14; the Thetis (Appeal), 2 Knapp P. C. 390.

(37) *The London Merchant, Laker*, 3 Hagg. 401; *the Raikes, Gardener*, 1 Hagg. 246; *the Meg Merrilies*, 3 Hagg. 346; *the Earl Grey, Topham*, 3 Hagg. 363; *the Traveller, McLearn*, 3 Hagg. 370; *the Ardincaple, McLeod*, 3 Hagg. Ad. 151.

(38) *The Effort*, 3 Hagg. Ad. 165; *the Ewell Grove*, 3 Hagg. Ad. 209; *the Bleundenhall, Barr*, 1 Dods' Ad. 414; *L. Esperance*, 1 Dods' Ad. 46; *the Jubilee*, 3 Hagg. Ad. 43; *the Watt*, 2 W. Robb Ad. 70; *the Two Friends*, 8 Jur. 1011.

(39) *The Aquila Lumsden*, 1 C. Robb. Ad. 37.

(40) *The Columbia Thornton*, 3 Hagg. Ad. 428; *the Westminster*, 2 W. Robb. Ad. 229.

(41) *The Hope Norman*, 3 Hagg. Ad. 423.

(42) *The City of Edinburgh, Frazer* 2 Hagg. 337.

(43) *Richardson v. Campbell*, 5 B. and Ald. 192; *Harmer v. Bell*, 7 Moore P. C. 267.

(44) 17 and 18 Vict., c. 104, s. 497.

(45) *The Peace*, 1 Swab. 85.

(46) *Machachan on Shipping* 53

(47) *The Sarah*, 3 Adm. D. 39; 37 L. T. 831.

(48) *The I. C. Potter*, 3 L. R. Adm. 292; 40 L. J. Adm. 9; 23 L. T. 603; 19 W. R. 335.

(49) *The Glengaber*, 3 L. R. Adm. 292; 41 L. J. Adm. 84; 27 L. T. 386; 19 W. R. 168.

(50) *The Sappho*, 3 L. R. P. C. 690; 40 L. J. Adm. 46; 24 L. T. 795.

(51) *The Charles*, 3 L. R. Adm. 536; 26 L. T. 594; 21 W. R. 13.

(52) *The Welporneue*, 4 L. R. Adm. 129; 29 L. T. 405; *the Azteca*, 21 L. T. 797—Adm.

(53) *The Philotaxe*, 29 L. T. 515—Adm.

(54) *The Æolus*, 4 L. R. Adm. 29; 42 L. J. Adm. 14; 29 L. T. 41; 21 W. R. 704.

(55) *The Kathleen*, 43 L. J. Adm. 39; 41 L. T. 204.

(56) *The Scout*, 3 L. R. Adm. 512; 41 L. J. Adm. 42; 20 W. R. 617.

(57) *The Le Jouet*, 3 L. R. Adm. 556; 41 L. J. Adm. 95; 21 W. R. 83.

(58) *Cargo Ex Woosung*, 1 Adm. D. 260; 35 L. T. 8; 25 W. R. 1.

(59) *The Rosario*, 2 Adm. D. 41; 46 L. J. Adm. 52; 35 L. T. 816.

(60) *The Maude*, 36 L. T. 26—Adm.—D.

(61) *The Silesia*, 5 P. D. 177; 50 L. J. P. 9; 43 L. T. 219; 29 W. R. 156—D.

(62) *The S. S. Butler, the Baltic*, 4 L. R. Adm. 178; 43 L. J. Adm. **17**; 22 W. R. 752.

(63) *The Amerique*, L. R. C. P. C. 408.

(64) *The "Kathleen,"* 4 A. and E. 209.

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## CHAPTER IV.

## PART III.

## TOWAGE.

The tug is bound to use due diligence, care and reasonable skill, and should be provided with such a crew, tackle and equipments as are reasonably expected in a vessel of her class, and she also contemplates the ordinary risk under ordinary bad weather, and the risk of winds and waves and obstacles, floating or fixed, that be about in her path. (1)

Except as above, she does not warrant to bring the tow to its destination under all circumstances and at all hazards, but merely to use her best endeavors for that purpose, and she is relieved from responsibility if she be prevented by accidents or greater force not contemplated which renders the performance of her contract impossible. (2)

She is not, however, relieved because she is interrupted or her task cannot be completed in the manner originally intended. (3)

If, in the discharge of her task, by reason of the sudden violence of the winds or waves or other accidents the tow is placed in danger, and the tug incurs risks and performs duties not originally contemplated, she is entitled to extra pay for such extra work if the ship be saved, and she is bound to perform such extra services, unless it is impossible for her to do so. (4)

The tug has the same duties and authority over the ship while in tow as a pilot would have if on board. (5)

Of course where there is a pilot either aboard the tug or tow, both are to obey his orders. (6)

The tug is the agent of the ship in tow and liable to her owner for any damage occasioned through the fault of the tug alone. (7)

The owners of the ship in tow are in the first case liable to third persons suffering damages by the acts of either the ship or tug, but if the damage is caused by the tug's fault they have a right to recover back from her. (8)

In case of accidents, darkness or thick weather can only be an excuse for those who have exercised such extra caution as prudence and the circumstances require. (9)

No vessel can lay aside ordinary care under ordinary circumstances, or extraordinary care where the circumstances are extraordinary, without making herself liable to answer for any damage that ensues in consequence. (10)

Strict lookout is one of the most important things to be kept, especially when a vessel is under way. (11)

Steamers should always reverse their engines when there is danger of a collision; easing them down is not enough. (12)

A ship that was drifting with the wind and tide dragging her anchor, had to pay for the damages caused by her colliding with another vessel, on the ground that she should have let go a second anchor. If the anchor had been too light it would be the same. (13)

It is of the greatest importance that a seaman should as a matter of course stick to and keep the rules of the road whenever they are applicable to the circumstances, and he should take it for granted that the other vessel is going to do so too. (14)

A vessel under tow is considered as a steam vessel while being towed. (15)

It is the duty of a tow to follow directly in the course of the tug, and the tug therefore is not liable for damages sustained by a schooner which sheered out of the course and struck a rock. (16)

It is the duty of a ship or tug towing another to keep a look-out for both.

It is the duty of a ship towed by another to follow exactly all her manœuvres.

A ship being towed in a frequented place should have the means of immediately shipping or cutting the tow line.

A sailing vessel in danger from a steamer towing another vessel should do what she can to prevent an accident, though the fault is entirely that of the other ship's. (17)

A tug under contract to tow a ship is not entitled to salvage pay for rescuing the ship from danger brought about by the tug's negligent performance of her towage contract. (18)

A tug which receives positive instructions from the ship she is towing as to the course she is to steer is bound to follow such directions, and is not liable if the ship gets into trouble in consequence. (19)

Where a tug contracts with a vessel to tow her to a certain place it is inferred that she is to be towed through to her destination with due and reasonable diligence, and the tug cannot drop or desert the vessel and pick her up again without special agreement; and it is no defence for a tug captain to contend that he could not perform his contract because the tug was unavoidably frozen in. (20)

Where a tug agrees to tow a vessel from one place to another for a fixed sum, the tug cannot claim extra pay in respect of a delay which occurs during the passage without any fault on the part of the tug or the tow. (21)

## NOTES.

- (1) *The Galatea*, Swab. Ad. 349; *The Minnehaha*, 30 L. J. (Ad.) 211.
- (2) *The Julia*, Lush. Ad. 224; *The Minnehaha*, 30 L. J. (Ad.) 211.
- (3) *The Edward Hawkins*, 15 Moore P. C. 486; *The Annapolis*, Lush. Ad. 355.
- (4) *The Pericles*, Br. and Lush. Ad. 80; *The Charles Adolphe*, Swab. Ad. 153; *The Albion*, Lush. Ad. 282.
- (5) *The Energy*, L. R. 3 Ad. 48.
- (6) *The Christiana*, 3 W. Rob. Ad. 27, 33; *Petty v. Catto*, 6 Moore, P. C. 371; *The Duke of Sussex*, Forss. 1 W. Rob. Ad. 270.
- (7) *The Energy*, L. R. 3 Ad. 48; *The Julia*, Lush. Ad. 224.
- (8) *The Energy*, L. R. 3 Ad. 48.

(9) *The East Lothian*, Lush, Ad. 241; *The Itinerant*, Russel 2 W. Rob. Ad. 236.

(10) *The Girolamo*, Guiranovick 3 Hagg. Ad. 169, 174; *The Virgil*, Wilson, 2 W. Rob. Ad. 201; *The Iron Duke*, 9 Jur. 476; *The Despatch*, Cooper 1 Swab. Ad. 138; *The Rose*, Gilmore, 2 W. Rob. Ad. 2; *The Perth*, Spink, 3 Hagg. 414.

(11) *The Frederick Thurman*, 1 W. Rob. Ad. 16; *The Hebe*, Cole, 2 W. Rob. Ad. 246; *The General Palmer*, Thomas 2 Hagg. Ad. 323; *The Elizabeth*, 8 Jur. 365; *The Jonge Andries*, 1 Swab. Ad. 226.

(12) *The Chester*, Lawson, 3 Hagg. Ad. 316; *The George*, 9 Jur. 670; *Hay v. Le Neve*, 2 Shaw's Appl. Cases 395; *The Hope Hephurn*, 1 W. Rob. Ad. 156.

(13) *The Perth*, Spink, 3 Hagg. Ad. 414; *The Trident*, 1 Ecc. and Ad. Rep. 217; *the Sylph*, 2 Ecc. and Ad. 75, 86.

(14) *The Northampton*, 1 Ecc. and Ad. 152; *the Massachusetts*, Pritchard, 1 W. Rob. Ad. 371; *the Ulster*, 6 L. T. N. S. 736; *the Ligo*, Ligo, 2 Hagg. Ad. 356; *The Celt*, Taylor, 3 Hagg. Ad. 321; *the Dumfries*, Thompson, (in appeal) 1 Swab. Ad. 125, 126.

(15) *The Maugerton*, 1 Swab. Ad. 123.

(16) *The American and the Syria*, L. R. 4 Ad. 226.

(17) *The tug Stranger*, 24 L. T. 364—U. S.

(18) *The Jane Bacon*, 27 W. R. 35—Adm. D.

(19) *The Robert Dixon*, 5 P. D. 54; 42 L. T. 344; 28 W. R. 716—C. A.

(20) *The Robert Dixon*, 5 P. D. 54; 42 L. T. 344; 28 W. R. 716—C. A.

(21) *Gaskin v. Calvin*, et al 2 C. P. 527; *Dorland v. Bonter*, 5 Q. B. 583.

(22) *The Hjemmaett*, 5 P. D. 227; 49 L. J., p. 66; 42 L. T. 514.

## CHAPTER IV.

## PART IV.

## PILOTS.

The name pilot belongs legally to a person who does not belong to the vessel, but has charge of her during her progress through a river, roadstead or channel, or from or into a port, and he is usually taken on board at a particular place for that purpose only. (1)

A pilot as soon as he enters on his duties aboard supersedes the master in his control of the conduct of the ship, and the crew must obey him promptly in everything he orders respecting same, and it is the duty of the master to see that the crew obey the pilot. (2)

The refusal or wilful delay of a qualified pilot, without reasonable excuse, to take charge of a ship within the district for which he is licensed makes him liable to a penalty and suspension or dismissal. (3)

Where the vessel cannot be boarded, the pilot in his boat may lead the vessel, and in such a case is entitled to full fees. (4)

The master may, in circumstances where delay would be dangerous, get the best assistance possible or proceed without any. In such a case an unqualified pilot may take charge, but the master should keep his signal up for a pilot. (5)

A pilot is charged with the safety of the ship and all that she carries, and is bound to use due diligence and care and reasonable skill. He is answerable if the ship either does or suffers damage through his default, negligence, or want of skill, while the helm is under his control; and deserting the vessel before he has completely performed his duty will not excuse him. (6)

If he acts with reasonable prudence under circumstances of known danger, he is not liable for loss happening. (7)

The pilot being appointed by the owners or their agent the masters they are responsible for any damage done by the ship while under his charge. (8)

But no owner or master of any ship is responsible for any loss occasioned by the fault or incapacity of any qualified pilot in charge of such ship, but not appointed by him; as for instance: where the employment of such pilot is compulsory by law. (9)

It is the pilot's duty to give the course of the vessel, and whether to lessen sail or steam, or to go on or bring up, and as to the manner, time and place of anchoring, and whether it is prudent or not to take a vessel in tow. (10)

When the master of a vessel, having a pilot on board, sees him acting in such a manner as to threaten the immediate destruction of his own vessel, and to endanger the lives and property of others, the master should take the command and do what is required to remedy the error. (11)

A pilot may be entitled to salvage besides his pilot fees, as he is not obliged to go aboard a vessel in distress if there is danger of losing his life or being injured.

A pilot has an action against a ship-owner for injuries received by him while acting as pilot on board his vessel, caused by the negligence of the crew. (12)

When a ship is in charge of a licensed pilot he has full control to say when and where she shall anchor, the amount of chain to pay out, etc., and it is negligence on his part to go below before the vessel has steadied at her anchor. The officer of the watch should call the pilot in case of any emergency, except in cases where delay is dangerous, as the pilot is alone responsible while in charge. (13)

The owner of a Canadian ship, navigated in Canadian water, in charge of a pilot, taken on board under 27 and 27 Vict., c. 58, is expressly discharged from all liability for damage caused by obeying the direction of such pilot. (14)

A master must not keep back anything in the state of his vessel or his crew, which would or might effect her management in an

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emergency—as, for instance : that she is out of trim, short of hands or steam, that her steering gear is out of order, etc. —as, in case of his doing so, his owners may be liable for damage caused, even while the pilot is in charge. (15)

## NOTES.

(1) 17 and 18 Viet. Chap. 104 S. 2.

(2) *The Admiral Boxer*, Jones, 1 Swab. Ad. 193; *Bowcher v. Noidstrom*, 1 Taunt 568; *The Julia*, Lush. Ad. 224; *The Massachusetts Pritchard*, 1 W. Rob. Ad. 373; *The Portsmouth*, 6 Ch. Rob. Ad. 317 N; *The Diana*, Greig 1 W. Rob. Ad. 131.

(3) 17 and 18 Viet. C. 104 S. 365 Imp.

(4) 17 and 18 Viet. C. 104 S. 356 Imp.

(5) 17 and 18 Viet. C. 104 S. 378; *Rex v. Neul*, 8 T. R. 241; *Phillips v. Headlam*, 2 B. and Ad. 380.

(6) 3 Kent's Comm. 176; *The Portsmouth*, 6 C. Rob. Ad. 317 N.; *The Duke of Sussex*, Fors. 1 W. Rob. Ad. 270; *Carruthers v. Sydebotham*, 4 M. and Sel. 77; *Rex v. Neale*, 8 T. R. 241; *Law v. Hollingworth*, 7 T. R. 160.

(7) *Thompson v. North Eastern Ry. Co.* 30 L. J. (Q. B.) 67, in error, 31 L. J. (Q. B.) 194; *S. P. Clayards v. Dethick*, 12 Q. B. 439.

(8) *The Eden*, Parsons, 2 W. Rob. 442; *The Killarney*, Lush. Ad. 202; *The Protector*, 1 W. Rob. 45, 54; *Bowcher v. Noidstrom*, 1 Taunt 568; *Aldrich v. Simmons*, 1 Stark 210; *The Portsmouth*, 6 C. Rob. Ad. 317 N.; *The Diana Graig*, 1 W. Rob. Ad. 131; *Hammond v. Rogers*, 7 Moore P. C. 160, 171.

(9) *Brown v. Mullett*, 5 C. B. 599; *Langher v. Pointer*, 5 B. and C. 553; *The Maria*, 1 W. Rob. Ad. 95; *The Hibernian*, L. R. 4 P. C. 511; *The Halley*, L. R. 2 P. C. 193; *The Peerless*, Lush. Ad. 103; *The Annapolis*, Lush. Ad. 295.

(10) *The Agricola*, Grayson 2 W. Rob. Ad. 10; *The George*, Roberts, 3 W. Rob. Ad. 386; *The Gipsy King*, 2 W. Rob. Ad. 537; *The Julia*, Lush. Ad. 224.

(11) *The Maria*, Witt 1 W. Rob. Ad. 95; *The Lochlibo*, Boyd 3 W. Rob. Ad. 310; *The Admiral Boxer*, Jones 1 Swab. Ad. 193; *The Duke of Manchester*, 10 Jur. 865 (appeal); *Hammond v. Rogers*, 7 Moore, P. C. 160.

(12) *Smith v. Steele*, 10 L. R. Q. B. 125; 44 L. J. Q. B. 60; 32 L. T. 195; 23 W. R. 388.

(13) *The City of Cambridge*, Wood v. Smith 5 L. R. P. C. 451; 43, L. J. Adm. 11; 30 L. T. 439.

(14) *Redpath v. Allan*, *The Hibernian* 4 L. R. P. C. 511; 42 L. T. Adam. 8; 27 L. T. 725; 21 W. R. 276.

(15) *The Meteor*, 9 Jr. R. Eq. 567—Ch. Ap.; *The Livia*, 25 L. T. 887—Adm.

## CHAPTER IV.

## PART V.

## MARINE INSURANCE.

Insurance is a contract by which one party, in consideration in of a premium, undertakes to indemnify another party against a particular loss; a policy of insurance being the written instrument in which is set forth. The party who agrees to indemnify is the insurer, and having subscribed or signed the policy, is called the *Underwriter*; the party to be indemnified is called the *Insured* or *Assured*. (1)

Any individual, partnership or corporation may become insurers and underwrite marine risks, and, generally speaking, any person, British or alien, may be insured. (2)

The insured must have an *interest* in the property before he can insure same, and if he has assigned away his interest before the loss he cannot sue upon the policy for his own benefit, nor as trustee for the assignee, unless the policy was expressly or impliedly assigned. (3)

Any person may be said to have an insurable interest who may be injured by the risks to which the property in question is exposed, and who, without such risks, would have a moral certainty of advantage.

A ship-owner may insure his freight to be earned. (4)

A policy may be written or printed, or partly written and partly printed, but are generally nearly all printed with a few lines in writing.

The risk must be mentioned in the policy also the names of the underwriters and the sum insured. (5)

Policies may be either *open* or *valued*, the former being where the value of the thing insured is not inserted in the policy and must be proved in case of loss.



In a *valued policy* the value of the thing insured is agreed on between the parties and inserted in the policy.

Unless otherwise expressed, in a *voyage policy*, the underwriter's risk is generally limited to determine when the ship has been moored twenty-four hours in *good safety*, so that if she arrive a mere wreck and damage afterwards happens she cannot be said to have been moored in *good safety* and the underwriters will not be discharged. (6)

But where the words *good safety* are not used in the policy, the risk is ended at the expiration of the time limited whatever be the condition of the vessel. (7)

The name of the person whose property is insured should be inserted properly in the policy. (8)

The ship's name should also be inserted in the policy and the port she hails from. But where the words, "or by whatever name or names the same ship shall be called" are used, a mistake in the name will not break the policy, provided the ship can be identified and the underwriter be not prejudiced by it. (9)

A policy may, however, be taken on a ship or ships expected from any particular place. (10)

The property insured must be always described accurately, and the plain meaning of the description will be taken, evidence of usage to contradict same not being admissible.

Provisions come in under the head of furniture. But, although a policy must state exactly what is insured, the reason why the party insures need not be so expressed. (11)

Where the policy is merely for a certain voyage, such voyage must be accurately described, and the time and place at which the risk is to begin and end mentioned. (12)

The amount insured must of course be inserted, and the premium paid is usually mentioned, the acknowledgment of the receipt in the policy being held conclusive in the absence of fraud. (13)

In each policy of insurance a warranty is implied that the ship is seaworthy at the commencement of the risk, but where the vessel, crew and equipments are sufficient at such commencement the insured

is not responsible for any after deficiency occasioned by any neglect or misconduct of the master or crew. (14)

The underwriters may, however, agree or admit in the policy that the ship is, or shall be, considered seaworthy, and in such case they are liable, though the vessel sink from unseaworthiness the day after the policy was taken, provided there has been no fraud. (15)

The insured impliedly warrants that he will use all reasonable diligence to protect the property against the risks covered, so that a loss shall not happen through his own default and negligence. (16)

A total loss is one where the property insured is actually all lost, or where it is so much injured that the insured has a right to and does abandon same to the underwriters.

In the latter case the underwriters are entitled to the property, no matter what state it is in, on payment of a total loss, but the insured must have abandoned same and given notice of abandonment in due time. (17)

An abandonment cannot be partial; it must be of the whole thing insured and unconditional. It should be in writing, and clear and positive; but an abandonment may be made by word of mouth by the assured or some person authorized to make it.

Of course, the underwriters may, by agreement, waive any of above rules. (18)

There may be a total loss of a certain part of the cargo: as for instance: where several horses were insured, and each horse was separately valued and insured, a loss of one of them may be held to be a total loss. (19)

A person advancing money on a vessel in course of construction, and who is to have a lien for same on the vessel after she is launched, can insure his interest in her. (20)

Where it is mentioned in the policy that the vessel is to "go out in tow," she must be towed out to the place vessels in her trade are usually towed. (21)

In the case of a time policy, it was held there was no implied warranty of seaworthiness. (22)

If possible, where a vessel is ashore, the owners should be communicated with, and a notice of abandonment given if the owner is relying on the loss as total. (23)

Where the insurers of a vessel reinsure part of the risk in another company, the latter require to be notified of an abandonment and total loss before they are liable. (24)

An insurance premium should be paid at the time of the application, as in case of loss before the policy is used and the premium unpaid, the insurance company would not be liable. (25)

Where a person insuring a vessel answers to a direct question as to whether she has sailed or not, that she has not, the policy is void if she had in fact sailed. If nothing is said about the matter and she is not at the time what is called a missing ship, the policy is good. (26)

Where a vessel, insured against total loss, only runs ashore, the owner has no right to abandon her and claim for a total loss, unless the vessel was in such a state that no prudent man would think it worth his while to attempt to save and repair the vessel. (27)

Where a policy sets out that, if an accident to the vessel happens, a regular survey of her shall be held as soon as possible thereafter, this must be complied with unless absolutely impracticable. (28)

Where a vessel owner or master determines to abandon a vessel and claim for a total loss, he must give notice of such abandonment as soon as possible after the accident. (29)

A condition in a policy, "that suits for damages under such policy must be brought within twelve months after any loss or damage occurs" must be kept, and suitors will be barred after the time expires. (30)

In every marine policy for a certain voyage a warranty is implied that the ship is seaworthy at the time the risk attaches. Otherwise in case of a time policy. (31)

A seaman who ships on board a vessel which turns out to be unseaworthy, and who suffers damage thereby has no remedy against the owners. (32)

The ship owner does not warrant that the vessel shall continue seaworthy, or that the master or crew shall do their duty. (33)

In marine policies seaworthiness means that the hull of the vessel, the master, the crew, the tackle, sails, rigging, stores and outfit generally are such as make her in every respect reasonably fit for the proposed voyage. (34)

A vessel may be seaworthy for port or river navigation, and not so for an outside voyage. (35)

Where the insurers take the risk, with full information as to the class of the ship and the trade she is to be in, the owner and master are only required to make her as seaworthy as is reasonably practicable with such a ship. (36)

A ship may be unseaworthy by being overloaded or improperly loaded. (37)

Where a master is grossly ignorant, the ship is not seaworthy. (38)

Where a pilot is necessary a ship is not seaworthy which goes without one. (39)

Stores and supplies for the voyage are as much a requirement for seaworthiness as the staunchness of the hull itself. (40)

Where a vessel was sufficiently manned or provisioned at the start, but owing to accident or otherwise her crew becomes short or her provisions scarce, a deviation to fill up either will not break the insurance. (41)

Where a master finds his port of discharge ice-bound or otherwise blocked so that he cannot enter, and he makes for the nearest port to wait until his own is open or for orders, the deviation will not void the insurance. (42)

In case of accident it is the master's duty to use all reasonable means to save the ship and goods, and in case of an abandonment, the master in such efforts, acts as the agent of the insurance companies. (43)

In case of reshipment of the cargo the master acts as the owners' agent, as the insurers of the ship have no claim on the freight. (44)

Where several ports of discharge are named in the policy the master must visit them in the order named, but he is not obliged to go to all, in fact he may only call at one. (45)

Insurance companies are presumed to be acquainted with the practise of the trade they are insuring. (46)

Where, in consequence of one of the perils insured against, a vessel is forced to leave her proper course, such deviation is not one which will void the policy. (47)

A vessel is chartered at "A" to go to "B" and take a cargo from thence to "C," and the freight is insured before she leaves "A." The vessel is lost, or damaged so much, before she reaches "B," or receives the cargo, that the charter is broken, and she loses all chance of getting the cargo and earning the freight. The insurance company is liable for the freight. (48)

A master who does not sail on the day warranted in the insurance policy is liable for such neglect, and the policy itself is thereby rendered void.

Where a master actually heaves up his anchors, or unmoors, and starts on the intended voyage, but is driven back by bad weather or otherwise, the condition in the policy to start on that day is fulfilled, provided the master clearly intended to keep on his voyage when he started and his ship was in complete readiness to do so. (49)

The right of the underwriters of a lost ship for damages against a wrong-doer is merely to make the same claim that the insured might have made. (50)

#### INSURANCE BROKERS.

An insurance broker, or, as he is more generally called on this side of the Atlantic, an insurance agent, is an agent or middleman between the assured and the underwriters or insurance companies, whose duty it is to effect policies of insurance on ships, freight and cargo.

On accepting an order to procure an insurance he is bound to do his duty within a reasonable time, faithfully communicating all such material information as he is possessed of and the insurance company ought to know. (51)

He is required to use reasonable skill in the discharge of his duty, and to insert or have inserted in the policy such terms as his instructions or the nature of the case may require. (52)

Negligence, or want of skill, or of due diligence, will be a ground of action against him. (53)

He is bound to know what is unquestionably material to be communicated to the insurance company. (54)

Every fact in the knowledge of the insured which increases the ordinary risk, and which, if it were made known, would increase the premium, must be communicated to the insurance company; and when insuring, the insured had notice of a violent storm at the port of departure about eleven days after the vessel left, but only informed the insurance company generally that there had been "blowing weather and severe storms" on the coast since the vessel had sailed it was held that this concealment broke the policy. (55)

The insured is not bound to make known to the underwriters any circumstances relating to risks which the latter do not insure against; as, for example, risks which are excluded either by an express or implied warranty. (56)

The insured is bound to employ a captain of competent nautical skill and of general good character. (57)

In calculating the value of a vessel under an open policy allowance is to be made only for such articles as add to her permanent value, or are necessary to prepare her for the voyage insured, such as provisions, etc., advances to the master and crew not exceeding a month's pay. (58)

In calculating whether a vessel can be repaired for half her value, her value at the place where she is, must be taken, and not that in the policy.

To *repair* means to fully restore the vessel to her original con-

dition with, in general, the same kind of material as formerly. (59)

All losses and expenses necessarily, prudently or reasonably incurred on account of the property saved from shipwreck, from the time of the shipwreck to the time when it is in a position to be directly transported to its destination, are proper charges upon such property, for which the insurance company is liable. (60)

Where an insured vessel meets with damage, which is the subject of general average, her owners can collect from the underwriters the proportion charged against the cargo and freight. (61)

An abandonment *substitutes* an insurer in the place of the insured, and consequently after same is accepted, the insurers are entitled to whatever freight may be thereafter earned. (62)

Where the expense of repairs is equal to half the value of the vessel, or more, the insured may abandon as for a total loss; and the amount is to be taken without deducting one-third *new for old*, which rule applies only in cases of *partial loss*. (63)

As regards abandonment, the value of the vessel inserted in the policy must be taken, and the insured is not allowed to give proof of her real value. (64)

The insured is entitled to recover from the underwriter the expenses of labor and travel incurred for the preservation and recovery of the property insured, over and above the sum insured. (65)

An adjustment is conclusive when all the facts in the case have been disclosed, and it cannot be opened, except on the ground of either fraud or mistake from facts not known. (66)

Where there has been no fraud the valuation in the policy is conclusive against the insurers. (67)

An omission to abandon will not deprive the insured of his right to recover the actual loss sustained. (68)

An abandonment is not necessary in order to entitle the insured to recover for a total loss where the loss is actually absolute and entire. (69)

An abandonment must be unconditional, clear and explicit and on sufficient grounds, and the causes or reasons for making it must be described with certainty and precision. (70)

The acceptance of an abandonment relates back to the period when the accident occasioning it happened, and the insurers become the owners of the property from that period. (71)

By an abandonment the master becomes the agent of the underwriters, and the insured are not bound by his subsequent acts, unless they have adopted them, and he is answerable to the underwriters alone for his misconduct or loss. (72)

After an abandonment of goods the consignee of the goods becomes the agent of the underwriters, and the disposition of the goods saved, as made by him while he acts in good faith, is for the benefit as well as at the risk of the insurer. (73)

It was held under the following clause in an insurance policy [“This policy, warranted by the assured, to be free from any contribution for loss by jettison of property laden on deck of any sail vessel or barge.”] that a steam barge was not included. (74)

Where the goods which are saved do not amount to half the value of the goods insured, the insured may abandon as for a total loss, and such an abandonment may be enforced although the vessel be afterwards repaired and proceeds on her voyage. (75)

Stranding is not always in itself a loss which will justify an abandonment; it must be attended by such circumstances as are likely to produce total loss; and it seems that where a vessel should be deemed a wreck, or her situation desperate, or that she cannot be got off at an expense of half her value, an abandonment may be made and can be enforced, although she be afterwards got off by others and repaired at a less expense than was estimated. (73)

The following forms of hull and cargo policies are now in use on the lakes:



## MARINE INSURANCE.

155

VESSEL.

THE

NO.

## INSURANCE COMPANY,

OF

ON ACCOUNT OF

Loss, if any, payable to

*Sum Insured,*

\$

Do make insurance, and cause

dollars,

to be insured upon the body, tackle, apparel and other  
furniture of the

called the

of

From noon of the                      day of                      188 ,  
(the said vessel being warranted by the assured to be  
then in safety),                      To noon ofthe                      day of                      188 , unless  
sooner terminated or made void by conditions herein-  
after expressed.

Warranted by the assured to be employed exclusively  
in the freighting and passenger business, and not to en-  
gage in the lumber trade off the shores of Lakes  
Michigan and Huron (Grand Travers and Green Bays  
excepted), and to navigate only the waters, bays, har-  
bors, rivers, canals, and other tributaries of Lakes  
Superior, Michigan, Huron, St. Clair, Erie and Ontario,  
and River St. Lawrence to Quebec, usually navigated  
by vessels of her class, during the portion of the life of  
this Policy, between noon of April 1st and noon of  
November 30th; and between noon of November 30th  
and noon of April 1st ensuing, said vessel shall be laid  
up light and safely moored, satisfactorily to this Com-  
pany.

*Vessel Valued at,*

\$

The said Vessel, tackle, apparel and other furniture  
are valued at                      Dollars, without  
any further account to be given by the assured to the  
assurers, for the same.

Touching the adventures and perils which the said  
Insurance Company is content to bear and take upon  
itself by this Policy, they are of the Lakes, Rivers,  
Canals, Fires, Jettisons, that shall come to the damage  
of the said vessel, or any part thereof. Excepting all  
perils, losses, misfortunes or expenses consequent upon,  
and arising from or caused by, the following or other  
legally excluded causes, viz.: damage that may be  
done by the vessel hereby insured to any other vessel  
or property; incompetency of the master or insuf-  
ficiency of the crew, or want of ordinary care and skill

## MARINE INSURANCE.

'in navigating said vessel, and in loading, stowing and securing the cargo of said vessel ; rottenness, inherent defects, overloading and all other unseaworthiness ; theft, barratry, or robbery ; charges, damage or loss in consequence of a seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war ; any claim for wages or provisions furnished to officers or crew, while the property insured may be detained by any disaster, or during subsequent repairs, excepting always services rendered in protecting, recovering and securing the vessel or property covered by this Policy ; anchors being cast without being properly or sufficiently buoyed, gangways and openings through the deck being improperly or insecurely secured or protected.

The assurers hereby acknowledge the receipt of note , at \_\_\_\_\_ months from \_\_\_\_\_ for the amount of the consideration of this Insurance ; which, at the rate of \_\_\_\_\_ per cent. on \$ \_\_\_\_\_ is \$ \_\_\_\_\_ Less \_\_\_\_\_ per cent off is \$ \_\_\_\_\_ Total amount of Note \$ \_\_\_\_\_

Rate \_\_\_\_\_ per cent.  
Prem. \$ \_\_\_\_\_

In case of loss or misfortune, it shall be lawful and necessary to and for the assured, his agents, factors, servants, and assigns, to give the assurers prompt notice of the disaster, and submit the plan adopted for recovering and saving the property ; and to make all reasonable exertions, in and about the defence, safeguard and recovery of the said vessel, or any part thereof, without prejudice to this insurance ; and after recovery and the holding of a survey, by persons chosen by the insurers and insured, or their agents, made under oath, setting forth the particulars of actual damage received by the vessel in the disaster, and discriminating between those and former defects, and wear and tear, the insured are to cause the same to be forthwith repaired, in accordance with the surveyor's specifications ; and in case of neglect or refusal on the part of the insured, his agents or assigns, to adopt prompt and efficient measures for the safeguard and recovery thereof, or to repair the same when recovered, then the said insurers may, and are hereby authorized, to interpose and recover the said vessel, or after recovery to cause the same to be repaired, or both, for account of the insured ; to the expenditures and amount whereof the said Insurance Company will contribute according to the proportion

the sum insured bears to the valuation aforesaid, and the surplus (if any) paid or incurred by said insurers (with the premium note, if unpaid), shall be a lien upon, and shall be recoverable against the said vessel, tackle, apparel and other furniture, or any part thereof, or against the insured, at the option of the insurers; but in case this insurance shall be against total loss only, and no claim for same be sustained, then the whole of such expenditures and amount paid or incurred by the said insurers shall be a lien and recoverable as aforesaid; and in all cases of loss or damage, one-third new for old shall be deducted from the amount of actual cost of repairs or estimates for same (except on anchors), and no partial loss or particular average shall in any case be paid by the insurers unless the amount of the whole of such damage or loss (after deducting one-third new for old) equals or exceeds per cent. of the valuation aforesaid. Each passage, from port to port, shall be subject to its own separate average.

*Particular Average,*  
per cent.

**Boiler Clause.**—Unless caused by stranding, collision, or the vessel being on fire, the insured warrants this Policy to be free from any claim for loss or damage to boilers, steam-pipes, or machinery, caused by the bursting, explosion, collapsing or breaking of the same, and to be free from any and every general average and salvage expense in consequence thereof, excepting always the expenses of getting the vessel from an exposed position to the nearest place of safety, when further expenses of above nature are not to be a claim on these insurers.

It is agreed, that the acts of the insured or insurers, or their Agents, in recovering, saving and preserving the property insured, in case of disaster, shall not be considered a waiver or an acceptance of an abandonment, nor as affirming or denying any liability under this Policy, but such acts shall be considered as done for the benefit of all concerned, and without prejudice to the rights of either party. Further, the insured shall not have a right to abandon the vessel in any case unless the amount which the insurers would be liable to pay under an adjustment as of a partial loss, shall exceed half the amount insured; nor shall detention by the season, or by any other cause, be alleged or allowed as cause for abandonment. Moreover, no

## MARINE INSURANCE.

*abandonment*, in any case whatever, even when the right to abandon may exist, shall be held or allowed as *effectual or valid*, unless it shall be in writing, signed by the insured, and delivered to the said Company or their authorized agent; nor unless it shall be efficient, if accepted, to convey to and to vest in the said Insurance Company an unincumbered and perfect title to the subject abandoned; and the valuation of said vessel, expressed in this Policy, shall be considered the value in adjusting losses covered by this Policy.

Losses shall be payable in sixty days after proof of such loss or damage, and of the amount thereof, and proof of the interest of the assured shall be made and presented at the office of said Company (the amount of the premium, or note for premium, on this Policy, if unpaid, and all other indebtedness due this Company being first deducted).

It is also agreed and understood, that in case of any loss or damage under this Policy, the assured in claiming and accepting payment therefor, hereby, and by that act, assigns and transfers all his or their right to claim for such loss or damage as against any Person or Persons, to this Company, to inure to their benefit, however, to the extent only of the amount of the loss or damage and attendant expenses of recovery, paid or incurred by this Company, and any act of the assured waiving or transferring, or tending to defeat or decrease any such claim against any person, or persons, shall be a cancellation of the liability of this Company, for or on account of the loss or damage claimed, and the expenses of recovery or otherwise (if any) paid or incurred by the said Company, shall be a lien upon, and shall be recoverable against, the said vessel, tackle, apparel, and other furniture, or any part thereof, or against the insured, at the option of the insurer.

It is also agreed, that this Policy shall become void, if any other insurance is, or shall be, made upon the vessel interest hereby insured, which, together with this insurance, shall exceed the sum of

*Limit of Insurance,*  
\$

Dollars.

It is also agreed, that all claims under this Policy shall be void, unless prosecuted within one year from the date of the loss. And in case the notes or obligations given for the premium herefor, or for any part thereof, be not paid at maturity, the full amount of

premiums shall be considered as earned, and this Policy becomes void, while said past-due notes or obligations, or any part thereof, remain overdue and unpaid.

It is also agreed, that in all cases when carrying grain cargoes in bulk, the vessel hereby insured shall have the same secured by good and sufficient Shifting-Boards, properly and securely put in place so as to effectually prevent the Shifting of the Cargo.

The interests of the assured in this Policy, or any part thereof, or in the property hereby insured, or any part thereof, is not assignable, unless by consent of this Corporation manifested in writing, and in case of transfer or termination of any such interest of the assured, or any change of the nature of the insurable interest of the assured in the property aforesaid, either by sale or otherwise, without such consent, this Policy, shall from thenceforth be void and of no effect; and no assignment or transfer shall in any case relieve the insured, or property hereby insured, from any or all of the conditions therein expressed, and a violation of, or non-compliance with, any of such conditions, either by the assignee or by the assignor, before or after the assignment or transfer, shall vitiate this Policy.

N. B. This Policy is subject to the usages and regulations of the Port of New York, on all matters of adjustment and settlement of losses not herein otherwise clearly specified and provided for, to be stated by a competent adjuster of marine losses, designated by the insurers.

In WITNESS WHEREOF, The INSURANCE COMPANY of \_\_\_\_\_, have caused these Presents to be signed by their President and attested by their Secretary, in the \_\_\_\_\_ of \_\_\_\_\_, but shall not be valid unless countersigned by the duly authorized General Agents of said Company, at \_\_\_\_\_.

Attested,

Secretary,

President,

Countersigned

18 ,

General Agents.

his Policy  
year from  
or obligat  
any part  
amount of  
Q

## FORM OF ASSIGNMENT AND CONSENT

I,                      of                      hereby con-  
 cede, assign, transfer, and convey unto                      in the  
 presence of                      and                      witnesses thereon mentioned and referred  
 to as follows:

AS

That I,                      hereby expressly, lawfully, and absolutely do  
 hereby consent to the within policy,

It being my intention to assign the same to                      day of                      19                    

Signed, sealed, and attested the day and year first above written.

LAKE CARGO

NO

THE

## ASSURANCE COMPANY

OF THE OF

General Agent

## BY THIS POLICY OF INSURANCE, ON ACCOUNT OF

To make Insurance, and cause the several persons endorsed thereon, or in books attached hereto, to be insured upon all kinds of Lawful Goods, Wares, Merchandise and Produce, laden on board the good Vessel or Vessels, Boat or Boats, Railroad or Carriage, Laid on any Laid, at and from ports and places to ports and places, on a lawful and regular route and voyage, for the several amounts, and at the rates as herein endorsed, subject to the conditions of this Policy, or of any *Contract Proposition* covered by this Policy, according to their true intent and meaning.

Beginning the adventure upon the said property from and immediately following the loading thereof at the port or place named in this endorsement, and so shall continue and endure until the same shall arrive and be safely landed at the port of destination, and not to exceed forty eight hours from the time of arrival.

Touching the adventures and perils which the said Assurance Company is contented to bear and take upon itself, they are of the Lakes, Rivers, Canals, Railroads, Fires, Jettisons, and all other perils or misfortune that have or shall come to the hurt, detriment or damage of the said property or any part thereof, excepting all perils, losses or misfortunes arising from the want of ordinary care and skill in loading and stowing the cargo of, or in navigating, the said vessel, from theft, barratry or robbery, or other legally excluded causes. And in case of loss or misfortune, it shall be lawful and necessary to and for the insured or insurer, their agents, factors, servants and assigns, to sue, labor and travel for, in and about the defense, safeguard and recovery of the said goods and merchandise, or any part thereof, without prejudice to this insurance; nor shall the acts of the insured or insurers, in recovering, saving and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of abandonment, nor as affirming or denying any liability under this Policy, but such acts shall be considered as done for the benefit of all concerned, without prejudice to the rights of either

party; to the charges whereof the said Company will contribute in such proportion as the sum herein insured bears to the whole value of the property so insured. Money and Bullion, Promissory Notes, and other evidences of debt, Books of Account, Written Securities, Deeds, or other evidences of title to property of any kind, are not covered by this Policy, unless expressly defined as so insured.

And in case of Loss, such loss to be paid in thirty days after proof of loss, and proof of interest in said property are furnished this Company. Provided always, and it is hereby further agreed, that if the said insured shall have made any other insurance upon the property aforesaid, prior in date to this Policy, then the said Assurance Company shall be answerable

only for so much as the amount of such prior insurance may be deficient towards fully covering the property hereby insured; and the said

Assurance Company shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from. And in case of any insurance upon the said property, subsequent in date to this Policy, the said Assurance Company shall nevertheless be answerable

for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent insurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent insurance had been made. And in case of loss or damage to the property hereby insured, this Company, its agent or representative, at or nearest the first port of discharge, shall have prompt notice of same, and shall have every opportunity and facility for ascertaining the cause, extent and amount of damage, by personal inspection, appraisal or sale of the damaged property. It is also agreed, that the property be warranted by the insured free from any charge, damage or loss, which may arise in consequence of a seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war. It is Furthermore Hereby Expressly Provided, that no suit or action against this Company, for the recovery of any claim for loss or damage upon, under or by virtue of this Policy, shall be sustained in any Court of Law or Equity, unless such suit or action shall be commenced within the term of twelve months next after the loss or damage shall occur; and in case any such suit or action shall be commenced after the expiration of twelve months next after such loss or damage shall have occurred, the lapse of time shall be taken and deemed as conclusive evidence and a conclusive defense against the validity of the claim thereby so attempted to be enforced.

It is Also Agreed and Understood, that in case of loss or damage under this Policy the assured, in accepting payment therefor, hereby and by that act assigns and transfers to this Company all his or their right to claim for loss or damage, as against the Carrier, or other Person or Persons, to inure to their benefit, however, to the extent only of the amount of the loss or damage and attendant expenses of recovery, paid or insured by the said Assurance Company; and any act of the insured, waiving or transferring, or tend

Cont,



ing to defeat or decrease any such claim against the carrier, or such other person or persons, whether before or after the insurance was made under this Policy, shall be a cancellation of the liability of this Company, for or on account of the risk insured for which loss is claimed.

And it is Understood and Agreed, that this Company, or its Agent, shall have free access, at all reasonable hours, to the books, accounts, instructions, and correspondence of the assured containing statements of, or which relate to shipments and receipts covered by this Policy; and this Policy may be declared void by either party, on giving a written notice to that effect to the other party; but without prejudice to any shipment or liability made or incurred prior to the service of such notice.

**Deck Cargoes.** It is understood that property covered by this Policy, on Lake Vessels, shall be *under deck*, unless otherwise specified and charged for *additionally* in the endorsement hereon; and *deck cargoes* are insured against total loss of packages only; the minimum rates of such loss to make a claim shall be ten per cent., except salt, which shall be twenty per cent. of the whole number of packages insured *on deck*, and in all cases *on deck* risks to be free from damage by wet, breakage, leakage or exposure.

Warranted by the insured free from any claim from loss or damage arising from seizure, detention, or the consequences of any hostile act of the United States Government; also from any loss or damage from piracy or letter of marque, or of the acts of any government hostile to the United States.

Warranted by the insured free from damage or injury from dampness or frost, heating, sweating, steaming, change of flavor, or being spotted, discolored, musty or mouldy, except caused by actual water contact with the article damaged, and to be free from liability for leakage, on molasses or other liquids, or breakage of articles liable to break from their own nature, unless occasioned by the perils insured against.

If the voyage aforesaid shall have been begun, and shall have terminated before the date of this Policy, then there shall be no return of premium on account of such termination.

No shipment to be considered as insured until approved and endorsed hereon by this Company.

It is understood and agreed, as one of the conditions under which this Policy is issued and endorsements made thereon, that if the insurance is procured by any person or persons other than the assured, they shall be deemed the Agent or Agents of the Assured and *not of this Company* in any and all transactions relating to this insurance.

This Policy is subject to the usages and regulations of the ports of Buffalo or New York, in all matters of adjustment and settlement of losses and averages not herein otherwise clearly specified and provided for, as may be stated by a competent disinterested adjuster of marine losses, to be designated by the insurers; but no damage to be paid unless amounting to *Five Per Cent.*



- (21) *The Provincial Ins. Co. of Canada v. Connolly*, 5 S. C. R. 258.
- (22) *The Phoenix Ins. Co. v. The Anchor Ins. Co.*, 4 O. R. C. P. D. 524.
- (23) *Gallaghee v. Taylor*, 5 S. C. R. 368.
- (24) *The Phoenix Ins. Co. v. The Anchor Ins. Co.*, 4 O. R. C. P. D. 524.
- (25) *Walker v. Provincial Ins. Co.*, 7 Chy. 137; 8 Chy. 217.
- (26) *Perry v. B. A. F. and L. Ass. Co.*, 4 Q. B. 330.
- (27) *Meagher v. Aetna Ins. Co.*, 20 Q. B. 607; *Meagher v. Howe Ins. Co.*, 11 C. P. 328.
- (28) *Hamilton v. Montreal Ass. Co.*, 23 Q. B. 437.
- (29) *Harkley v. Provincial Ins. Co.*, 18 C. P. 335.
- (30) *Provincial Ins. Co. v. Aetna Ins. Co.*, 16 Q. B. 135.
- (31) *Dixon v. Sadler*, 5 M. and W. 414; *Burgess v. Wickham*, 33, L. J. Q. B. 25.
- (32) *Couch v. Steele*, 3 El. and Bl. 102.
- (33) *Dixon v. Saddler*, 5 M. and W. 414.
- (34) *Phillips on Ins.* 695; *Lee v. Beach*, 1 Park Ins. 468.
- (35) *Annen v. Woodman*, 3 Taunt 299; *Kay on Masters and Seamen*, 82.
- (36) *Burgess v. Wickham*, 3 B. and S. 669; *Knell v. Hooper*, 2 H. and N. 277.
- (37) *Foley v. Tabor*, 2 F. and F. 662; *Redman v. Wilson*, 14 M. and W. 476.
- (38) *Phillips on Ins.* 707.
- (39) *Phillips on Ins.* 715.
- (40) *Fontaine v. Phoen. Ins. Co.* 10 Johnson's N. Y. R. 58.
- (41) *Phillips on Ins.* 1018; *Woolf v. Claggitt*, 3 Esp. 357; *Forshaw v. Chabert* 3 B. and B. 158; *Kettell v. Wiggim*, 13 Mass. Rep. 68; *Raines v. Bell*, 9 East 195.
- (42) *Phillips Ins.* 1023.
- (43) *Phillips on Ins.* 1732; *Kidston v. Empire Ins. Co.* L. R. 1 c. p. 544.
- (44) *Potter v. Rankin*, L. R. 5 c. p. 371.
- (45) *Phillips on Ins.* 1010.
- (46) *Noble v. Kenoway*, Dougl 513.
- (47) *Phillips on Ins.*, 1024; *Vallego v. Wheeler*, Cowp. 143.
- (48) *Jackson v. Union Marine Ins. Co.*, 8 L. R. C. P. 572; 42 L. J. C. P. 284; 22 W. R. 79.
- (49) *Phillips on Ins.* 772; *Bond v. Nutt*, 2 Cowp. 607.

- (50) *Simpson v. Thompson*, 3 App. Cas. 279; 38 L. T. L.
- (51) *Bell v. Jutting*, 1 J. B. Moore 155; *Turpin v. Bilton*, 5 M. and G. 155; *Callander v. Olerick*, 5 Bing. N. C. 58; *Maydew v. Forrester*, 5 Taunt 615; *Seller v. Work*, 1 Marsh Ins., 305.
- (52) *Park v. Hammond*, 6 Taunt 495; *Chapman v. Walton*, 10 Bing. 57.
- (53) *Wilkinson v. Coverdale*, 1 Esp. 75.
- (54) *Maydew v. Forrester*, 5 Taunt 615; *Seller v. Work*, 1 Marsh Ins. 305.
- (55) *Seton v. Law*, 1 Johns Cases 1; *Ely v. Haffell*, 2 Caines' Rep. 57.
- (56) *Walden v. The New York F. Ins. Co.*, 12 Johns 128, in error 12 Johns 513.
- (57) *Walden v. The New York F. Ins. Co.*, 12 Johns Rep. 128, in error 12 Johns Rep. 513.
- (58) *Kemble v. Bowne*, 1 Caines Rep. 75.
- (59) *Fontaine v. The Phoenix Ins. Co.*, 11 Johns Rep. 293; *Centse v. The American Ins. Co. of New York*, in error 7 Wendell's Rep. 45.
- (60) *Bridge v. The Niagara Ins. Co.*, 1 Hall's Supreme Court Rep. 423.
- (61) *Steinhoff v. R. C. Ins. Co.*, 42 Q. B. 307.
- (62) *The United Ins. Co. v. Lenox*, 1 Johns Cases 377. Affirmed in error 2 Johns 413.
- (63) *Depuy v. The United Ins. Co.*, 3 Johns Cases 182; *Sherman's Marine Ins.* 15.
- (64) *The American Ins. Co. v. Ogden*, 20 Wendell's Rep. 287.
- (65) *Watson v. Marine Ins. Co.*, 7 Johns Rep. 57; *Bridge v. The Niagara Ins. Co.*, 1 Hall's Superior Court Rep. 423.
- (66) *Dow v. Smith*, 1 Caines' Rep. 32.
- (67) *Kane v. The Commercial Ins. Co.*, 8 Johns Rep. 229.
- (68) *Snydam v. The Marine Ins. Co.*, 2 Johns 133.
- (69) *Gordon v. Bowne*, 2 Johns Rep. 150.
- (70) *Snydam v. The Marine Ins. Co.*, 1 Johns Rep. 181.
- (71) *The United Ins. Co. v. Scott*, 1 Johns 106.
- (72) *Jamel v. The Marine Ins. Co.*, 7 Johns Rep. 412; *Dickey v. The American Ins. Co.*, 3 Wendell's 658; *Gardiere v. The Columbia Ins. Co.*, 7 Johns Rep. 314; *Sherman's Marine Insurance*, 31.
- (73) *Gardner v. Smith*, 1 Johns Cases 141.
- (74) *The Ireland*, *Steinhoff v. R. C. Ins. Co.*, 42 Q. B. 307.
- (75) *Gardner v. Smith*, 1 Johns Cases 141; *Center v. The American Ins. Co.*, 7 Cowen 564; *Dickey v. New York Ins. Co.*, 4 Cowen 222; *Ludlow v. The Columbian Ins. Co.*, 1 Johns 335.
- (76) *Patrick v. Commercial Ins. Co.*, 11 Johns 9; *Fontaine v. The Phoenix Ins. Co.*, 11 Johns 293.

## CHAPTER V.

PART I. BUILDING OF SHIPS. PART II. OWNER OF SHIPS.  
PART III. SHIP'S HUSBANDS AND BROKERS. PART IV.  
SALE AND MORTGAGE OF SHIPS.

## PART I. BUILDING OF SHIPS.

A contract for the building of a ship or vessel should be in writing, and should specify the lineal measurements of the vessel, her burden, material to be made of, mould classification at Lloyd's, her rig and finish.

And should state plainly the time when to be completed and delivered, the price, together with the conditions and times of payment, and especially the time of the property changing from the builders to the owners.

This last clause is very important, as under a contract for the making of a ship, although parts of the price be payable at fixed stages in the course of the work, no property passes to the buyer until the ship is finished and delivered to the owner, or is accepted by him, except it is otherwise agreed in the contract. (1)

Where this is not mentioned in the contract, the ship may be seized for the debt of the builder, although almost completed and different sums of money paid on the same to the builder. (2)

A contract should, therefore, state that on each payment being made, so much of the ship, as finished, should revert and belong to the owner. (3)

The law is otherwise, however, in cases where the owner supplies the material and the builder merely performs the work. (3)

A ship builder has a lien or claim on the ship for the price, and

also for repairs, provided the ship be in his possession. Where the contract is for credit no such lien exists. (3)

A ship builder, who retains a ship under his lien, cannot charge for rent, unless there is an agreement for same. (4)

A steamboat has been held to be personal property, and properly assessable at one of the two places, between which in summer it plied, and at which in winter it was laid up. (5)

Vessels owned by a resident of this Province, but never registered there, and always sailing abroad, do not come within the clause, "Whether such ship or vessels be at home or abroad at the time of assessment," and, therefore, are not liable to be assessed in this Province. (6)

See also statutory law at end relating to the encouragement of ship building, etc.

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#### NOTES.

(1) Wood v. Bell, 25 L. J. (Q. B.) 148, 153; Clarke v. Spence, 4 A. and E. 448, 1.

(2) Mucklow v. Mangles, 1 Taunt 318; Tripp v. Armitage, 4 M. and W. 687.

(3) Woods v. Russell, 5 B. and Ald. 942; Atkinson v. Bell, 8 B. and C. 277; Baker v. Gray, 17 C. B. 462; Woody. Bell, 5 E. and B. 772; (In Error) 6 E. and B. 355; Franklin v. Hosier, 4 B. and Ald. 341.

(4) ~~Somes~~ v. British Empire Shipping Co., 8 Ho. of Lds 338; 30 L. J. (Q. B.) 229.

(5) In re Hatt., 7 L. J. 103.

(6) The City of Halifax v. Kenny, 3 S. C. R. 497.

## CHAPTER V.

## PART II.

## OWNERS OF SHIPS.

Where the owners have a special agreement as to the management of a ship and her employment, such agreement must be observed. For example : where they appoint a person, either one of themselves or some other person, to be ship's husband or master, and to have entire charge of the ship. (1)

In case of no such agreement, the majority in value have the control of the ship and her actions ; but where they want to send the ship on a certain voyage against the wish of the minority they cannot do so, without first giving a bond for the safe return of the ship, or for payment to the minority of the value of their interests in case of loss or damage. (2)

In such a case the majority bear all the expense, and of course are entitled to all the profit, if any. (3) Neither do the minority receive payment for wear and tear. (14)

The court can settle all difficulties and accounts between owners, and may direct a sale of the ship or any part thereof and make any such order it deems necessary. (4)

Each owner can insure his own share, and a part owner cannot be compelled to insure or pay a premium or part of one unless willing to do so. (5)

If owners of a ship hold her as partners, each having an undivided interest in the whole ship, they are all jointly liable on the contract of each, made in the name and for the purpose of the partnership.

If they are part-owners, each owning separate shares in her, as is generally the case, each is liable upon his own contract, made either by himself or by an agent duly authorized by him. (6)

Owners are liable for damage occasioned by the negligence or carelessness of the master or crew in the course of their lawful employment to the full extent of the injury to either ship, goods or person ; and if a person injured by the accident die, his family and relations can sue for the loss suffered by them in consequence. (7)

But for the wilful default of a servant, even in the course of his employment, an employer is not liable. (8)

The principle, that one who receives an injury from the negligent act of another shall not be entitled to damages if by the exercise of ordinary care he might have avoided the injury, was acted on in the case of *Grieve v. Ontario Steamboat Co.*, where Grieve sued for damages sustained by him in consequence of one of the fenders breaking loose from the defendant's steamboat while she was in the act of leaving the wharf and striking and injuring Grieve, who was standing on the wharf, he [Grieve] having received warning to stand clear ; and it appearing that a person with ordinary care might have escaped. (9)

It was held in the case of the *Waubuno* that, as she had not been registered under the Merchant Shipping Act, 1854, she was not a British ship within the meaning of that act, by virtue of the statute of Canada, 36 Vic. 128, and therefore not entitled to take advantage of the limitation clause. (10)

As to the liability of the ship owners for negligence in the construction and management of their steamboat, by which sparks escaped from the funnel at a wharf, and lumber and mills there were burned, the ship owners are not chargeable with negligence merely by reason of the escape of sparks, if they used such precautions as without preventing the proper working of the vessel could be adopted to prevent the escape of fire. For example : sufficient steam should be raised before reaching the wharf, so as to enable the steamboat to leave the wharf without either opening the dampers or the screens. (11)

Part owners of a ship are tenants in common of the ship, and partners in the earnings only. (12)

If dutiable goods be brought by inland navigation to a port of



entry and there entered, and the goods are afterwards landed without a permit, they are liable to seizure, but the vessel in which they were brought is not. (13)

An owner of a ship may sue his part-owner, for they are not necessarily partners. (15)

A co-owner or part-owner in a ship has an undivided and distinct interest in the whole ship, but his power of disposal is limited to his own share, and he cannot, without authority, pledge the credit of his co-owner (16)

In the United States co-owners have implied authority from absent co-owners to pledge their credit, so far as may be necessary to the preservation and proper employment of the ship. (17)

A part-owner has no power to sell or deal with the shares of his co-owners without their authority; where, however, one co-owner sells and the rest ratify, the transaction otherwise void, is complete and valid. (18)

In the United States, in the case of repairs done or necessities supplied, all the owners are held severally liable *in solido* for the whole debt to third parties who have supplied the above for the common benefit of the ship. (19)

A ship's husband, as a general agent, has *prima facie* authority to order and bind the credit of all the owners for all necessary repairs. (20)

By the execution of a bill of sale a vessel owner divests himself of all his rights of ownership in favor of the purchaser from the moment of its execution. (21)

It is the purchaser's duty to register his title, and it is said that it is doubtful if he could transfer his title or interest before he has registered. (22)

Foard on Merchant Shipping, page 70, gives the following as the chief liabilities to the merchant of the ship owner who carries goods in a general ship, and who undertakes the transport of goods, in-

deposited to be lost to all persons who apply to him.

1. He is held to be the security and safe delivery of all goods deposited on board without express limitation or agreement. He is answerable for the safety of such goods in every event, but the act of God and the Queen's enemies.

2. He cannot absolve himself completely for all, and cannot refuse to pay for a particular cargo.

3. He is answerable for any loss or damage for his hire and charges, and must repay, and the carrier must return the goods to him by a certain day.

4. He is answerable for responsibility by special acceptance, and for the safety of goods deposited and to persons.

5. He is answerable for a certain time.

6. He is answerable for any loss or damage for his hire and charges, and must repay, and the carrier must return the goods to him by a certain day.

When making a deposit, a common carrier is a doubtful question. Mr. [Name] is a common carrier, the following elements necessary:

1. The goods must be deposited for employment, even a public one.

2. The goods must be deposited for a certain time.

3. The goods must be deposited for a certain time in the transport of goods, and the carrier must be a common occupation *pro h*.

A ship is a vessel of war, built at a foreign port, and the requisites for her to be a British ship are, that she must be built in a British port.

1. The ship must be a British member of a body corporate.

2. The ship must be a British ship, built in a British port.

3. The ship must be a British ship, built in a British port.

4. The ship must be a British ship, built in a British port.

5. The ship must be a British ship, built in a British port.

6. The ship must be a British ship, built in a British port.

7. The ship must be a British ship, built in a British port.

8. The ship must be a British ship, built in a British port.

Application to register a ship must be made to the Registrar of Shipping by the owner or his agent, and the Registrar is not satisfied of the applicant's authority shall cause a notice of the refusal to be made by the proper officer, in accordance to 36 Victoria, chapter 128 [250 end of book.]

On the receipt, by the Registrar, of the certificate of ownership and declaration of tonnage, the next step toward registration is the evidence of ownership.

Every owner must make a declaration of ownership, which must be made before the Registrar of the Port of Registry, or a notary resident within five miles of same, but may otherwise be declared before any other registrar or justice of the peace. Except in the case of bodies corporate, when the declaration or other authority must be made in person before the Registrar of the Port of Registry.

Where the ship is British built, the builder's certificate must be delivered to the Registrar, but where foreign, the bill of lading, which the applicant obtained in title, is required to be delivered to the Registrar, but such bills of lading must appear to be in the form given by our act.

The builder's certificate must be signed by the owner himself and cannot be executed by or on behalf of the registrar, although the signature of the builder is sufficient.

Owners should instruct their master that, upon receipt of payment for a share, he must be careful to receive a receipt. The master must immediately deliver the certificate of payment to the latter, inasmuch as the certificate of payment is required of him to earn same.

#### NOTE

(1) *Servante v. Janney*, 10 L. and C. 411; *Osborne v. Osborn*, 11 L. and C. 38; *Way v. Milestone*, 5 M. and W. 91; *Bentley v. Cripps*, 1 C. and P. 209; *Rackstraw v. Niles*, Holt 365.

(2) *Molloy de Jure*, Mar. Lk. 2 C. 1; *The Apollo*, 10 and 11 Hag. Ad. 306; *The Margaret*, 2 Hag. Ad. 241; *Holt v. Goodwin*, 2 Mar. 77; 2 Dal. Ad. 420.

(3) *Brown v. Sandford*, 1 Carth. 61; 10 M. and W. 100; 1 C. and P. 209.

- (4) 24 Viet., C. 10, S. 8, Imp
- (5) French v. Backhouse, 5 Burr 2727; Lindsay v. Gibbs, 4 Jur. N. 8 779; Hooper v. Lushy, 4 Camp. 66; Bell v. Humphries, 2 Stark R. 345
- (6) Brodie v. Howard, 17 C. B. 109; Mitcheson v. Oliver, 5 E. and B. 419; Helme v. Smith, 7 Bing. 709; Frost v. Oliver, 1 E. and B. 301; Jaggors v. Benning, 1 Stark R. 64; Bell v. Humphries, 2 Stark R. 345; Cox v. Hickman, 8 Ho. of Lds C. 268
- (7) Seymour v. Greenwood, 30 L. J. (Ex) 189; Poulton v. L. and S. W. R. Co., L. R. 2 Q. B. 334; The *Thetis*, L. R. 2 Ad. 265
- (8) McManus v. Cricket, 1 East 100; Ellis v. Turner, 8 T. R. 331; the *David*, Newton, 1 W. Rob. Ad. 301; Gregory v. Piper 9 B. and C. 591; the *Ida*, 1 Lush. 6
- (9) Grieve v. Ontario Steamboat Co., 4 C. P. 387
- (10) See, however, Statute of Can. 43 Vic., chap. 29, as to limitation of end; the *Georgian Bay Transportation Co. v. Fisher*, 5 O.A. Rep. 483
- (11) Edwards et al v. Ottawa River Navigation Co., 39 Q. B. 261
- (12) Baker v. Carey, 19 Chv. 537.
- (13) McKenzie et al v. Kulev, 6 O. S. 422
- (14) Foard on Merchant Shipping, P. 33; Horn v. Gilpin, Amb. 255; the *Peggy*, 4 Rob. 394; the *Margaret*, 2 Hagg. Ad. 275
- (15) Foard on M. Shipping 37; Helme v. Smith, 7 Bing. 709
- (16) Brodie v. Howard, 17 C. B. 109; Foard on Merchant Shipping 32.
- (17) Harsly v. Sproule, 29 Maine R., 258; 31 Main R. 71; 3 Kent's Com. 12th Ed. P. 155 N. 1
- (18) Oviatt v. Sage, 7 Conn., 95, A. M.; Putman v. Wise, 1 Hill (N. Y.) 231 A. M.; Foard's Merchant Shipping, para 39, 45
- (19) Storey on Agency, S. S. 40, 41; Storey on Shipping, Vol. I, P. 100; Thompson v. Finden, 4 C. and P. 138
- (20) Foard's Merchant Shipping 52
- (21) Foard's Merchant Shipping 66
- (22) Foard's Merchant Shipping P. 66; the *Spirit of the Ocean*, 34 L. J. Ad. 74, page 76.
- (23) Storey on Bailment's, 8, 495.

## CHAPTER V.

## PART III.

## SHIP'S HUSBANDS AND BROKERS.

The ship's husband is a confidential agent, appointed by the owners to conduct and manage on shore whatever concerns the employment of the ship, and for that purpose he has authority to order the necessary repairs, refitting and outfit of the ship, to see that she is properly manned, to procure charters for the vessel, to do what is needful for furthering the voyage, to provide for the entry and clearance of the ship at her home port, to adjust and receive the freight, pay the necessary disbursements, and to account for and distribute the proceeds to the owners. (1)

The above general and usual powers may be enlarged or limited by the instrument appointing him. (2)

Where he is part owner and supplies necessaries to the ship, he will not be allowed more than cost price for the articles supplied. (3)

It is his first duty to balance his accounts for each voyage, and be ready with them for the inspection of the owner, a reasonable time being allowed him to make same up. (4)

The owners are bound by all contracts made by the ship's husband on their behalf, or acts done within the scope of his authority for the purposes of the ship, in connection with her employment, but such contracts must be proper and necessary for the ship at the time. (5)

A ship's husband may pledge the owner's credit to bond the ship when under arrest, in order to enable her to prosecute her voyage and earn freight, but where possible he should communicate with the owners. (6)

A ship's husband cannot bind the owner for insurance on the ship unless his instructions warrant it. (7)

A ship's husband has no authority to bind the owners by an agreement to cancel a charter and pay a sum of money for such cancellation. (8)

The duties of a ship's husband are severally defined as follows :

"To see that the ship is properly repaired, equipped and manned, to procure freights or charter parties, to preserve the ship's papers, to make the necessary entries, adjust freight and averages, disburse and receive moneys, and keep and make up the accounts as between all parties interested." (9)

"The ship's husband is understood to be the general agent in regard to all the affairs of the ship in the home port, to direct all proper repairs and equipments and outfits for the ship ; to hire the officer and crew ; to enter into contracts for the freight or charter of the ship, if that is her usual employment, and to do all acts necessary and proper to prepare and dispatch her for and on her intended voyage." (10)

Again, the duties of a ship's husband are defined by Collyer thus : "To see to the proper outfit of the vessel ; to have a proper master, mate and crew ; to see to the furnishing of provisions and stores ; to see to the regularity of all clearances from the custom house ; to settle the contracts ; to enter into proper charter parties, or engage the vessel for general freight ; to settle for freight and adjust averages with the merchant ; to preserve proper certificates and documents in case of future disputes with insurers or freighters, and to keep regular books of the ship." (11)

And in Bell's Commentaries, sees. 411, 429, we see that part of the duty of the ship's husband is, "To see to the regularity of all the clearances from the custom house, and the regularity of the registry." (12)

## SHIP BROKERS.

A ship broker is an agent or middleman between the merchants or shippers and the vessel men, and who procures freights and negotiates the sale and purchase of ships. His appointment does not require to be in writing, and unless specially mentioned does not authorize him to conclude any bargain, charter, etc., without further reference to his principals. (13)

Where a broker introduces a captain and merchant to one another, and they, by his means, enter into some negotiation, he is entitled to a commission, even though they employ another broker to draw up the charter or do so themselves. (14)

The broker is entitled to be paid as soon as he has done his work. (15)

The broker's commission at ocean ports, unless otherwise agreed, is generally rated at 1 per cent. on purchase money in sales, and 5 per cent. on freight in chartering (16); and on the lakes the price for chartering ranges from \$2 to \$20, according to the size of the vessel, and even more if agreed on.

## NOTES.

(1) 3 Kent's Comm. 157; Storey Agency No. 35; Walton v. Fothergill, 7 C. and P. 392.

(2) Card v. Hope, 2 B. and C. 661; Preston v. Tamplin, 2 H. and N. 363, 684; Darby v. Baines, 9 Hare 369.

(3) Ritchie v. Cowper, 28 Beavan 344.

(4) Pearse v. Green, 1 J. and W. 135, 139; Owston v. Ogle, 13 East 538; Topham v. Braddick, 1 Taunt 572.

(5) Coulthurst v. Sweet, L. R. 1 C. P. 649; Whitwell v. Perrin, 4 C. B. N. S.

(6) Barker v. Highley, 15 C. B. N. S. 27; 32 L. J. (C. P.) 270.

(7) Lindsay v. Gibbs, 4 Jur. N. S. 779; French v. Backhouse, 5 Burr. 2727.

(8) Thomas v. Lewis or Oxley, 4 Ex D. 18; 48 L. J. Ex 7.

(9) Abbott on Shipping, part 1, ch. 3, 10th ed'n, p. 73.

(10) Storey on Agency, section 35.

(11) Collyer's Treatise on Partnership, p. 681.

(12) See also Hall v. Duncan et al, 22 Q. B. 602.

(13) *Cole v. Treothick*, 9 Ves. 250; *Smith v. Bouteher*, 1 C. and K. 573; *Wilkinson v. Martin*, 8 C. and P. 1; *Burnett v. Bouch*, 9 C. and P. 620; *Brond v. Thomas*, 4 C. and P. 338, 7 Bing. 99.

(14) *Green v. Bartlett*, 32 L. J. (C. P.) 261; *Wilkinson v. Martin*, 8 C. and P. 1, 5; *Conard v. Van Oppen*, 1 F. and F. 716; *Burnett v. Bouch*, 9 C. and P. 620; *Phillips v. Briard*, 1 H. and N. 21.

(15) *Hill v. Ritching*, 3 C. B. 299.

(16) *Wilkinson v. Martin*, 8 C. and P. 1; *Brown v. Nairn*, 9 C. and P. 204; *Roberts v. Jackson*, 2 Stark 225.



## CHAPTER V.

## PART IV.

## SALE AND MORTGAGE OF SHIPS.

Under 8 Vict., c. 5, S.S. 13, 23, 24, [C. S. C. c. 11] the Certificate of Registry of Ownership must be recited in a transfer by way of mortgage or security [with power of sale in case of default], as well as upon an absolute or immediate sale, and if omitted, the mortgage will be void. (1)

A builder of a ship is not compelled to have her registered before he can make a valid sale. (2)

A certificate of ownership, under 8 Vict., c. 5, s. 2, is not bad because the additions or occupations of the owners are omitted, the statute on that point being directory only. (3)

It has been held, under 8 Vict., c. 5, sec. 4, that some of the owners living at Bath might properly register the vessel at Kingston. (4)

The Imperial Act, 17 and 18 Vict., c. 104, does not repeal altogether the 8 Vict., c. 5, but applies only to vessels proceeding to sea; and our statute remains in force as to all vessels navigating exclusively our inland waters. (5)

However, 8 Vict., c. 5, is repealed by 36 Vic., chap. 128, which is printed at end of this book.

It does not require an *instrument* in writing to pass the title in a vessel, which does not require to be registered under the statute, such as fishing boats or boats that are sometimes propelled by oars. (6)

The owners of a vessel should be properly registered as such, to enable them to bring an action concerning her. (7)

A sale of a vessel, called the *Kaloolah*, in *Detroit*, under a judg-

ment of condemnation and sale in the Admiralty Court there for certain claims, which, by the United States law, formed a lien upon her, was held good; and the purchaser at the sale had a good and clear title, although there was a writ of execution against her owner in the sheriff's hands in Canada. (8)

The owner of several steamers, who was carrying on business as a forwarder, sold one of them to another forwarding firm, and upon the sale agreed that he would not directly or indirectly have any interest in any vessel navigating the St. Lawrence below Ogdensburg at any time thereafter; and also that he would not dispose of two other steamers then owned by him to any person or persons for the purpose of navigating the St. Lawrence below Ogdensburg. The court held the purchasers from this firm, with knowledge of the above bargain, were bound by the same, and granted an injunction restraining them from navigating the river below Ogdensburg with those vessels. (9)

An agreement, in writing, to transfer a ship does not require to be registered under the Merchant Shipping Act, nor does the special description of the ship, as required in a bill of sale, require to be in such an agreement. (10)

Where a contract for work to be done on a ship is entire and indivisible, is to be paid for by instalments as the work progresses, and the ship is lost or destroyed after part of the work is done, both parties are released from their contract, and any money paid by the ship owner, although much in excess of the work and materials put upon the ship cannot be recovered back. But articles manufactured for the ship, but not fixed to her, are not the property of the ship-owner. (11)

A person holding a mortgage on a ship cannot come in ahead of the ship-wright's lien for repairs, ordered by the owner, while in possession. (12)

The owners of a vessel, which is mortgaged, and in the possession of and navigated by the mortgagee, are not liable for the loss of goods shipped on her. (13)

A mortgagor of a boat destroyed by collision can recover the full

value from the owners of the other vessel without regard to the mortgage. (14)

A mortgagee cannot object to a beneficial charter being carried out, simply because the ship will thereby be removed out of the jurisdiction of the court; and it might be difficult for him to enforce his mortgage. (15)

A mortgagor in possession of a vessel is entitled to manage a vessel as he thinks best. (16)

A piano on board of a vessel does not pass to a mortgagee under the clause, "With her boats, guns, ammunition, small arms and appurtenances." (17)

A mortgagee, until he takes possession or does something amounting to same, is not entitled to an account of the money earned by the vessel. (18)

A purchaser at a sale is not allowed to depreciate the property at the time of a sale, by suggesting doubts or slandering its title or qualities. (19)

A statement that a sale is "without reserve" or a condition that "the highest bidder shall be the purchaser," will void the sale if there is a reserve price, or puffers are employed. (20)

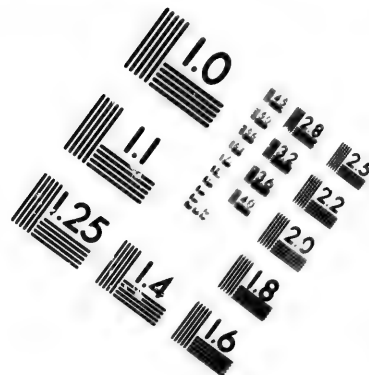
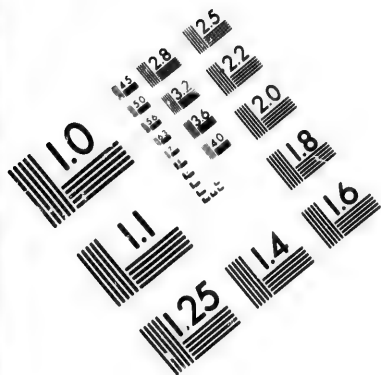
Lord Stowell defined "appurtenances" as follows:

Whatever is on board a ship, excluding cargo, for the objects of any voyage or adventure on which she may be engaged or contemplate, will probably pass under the words "ship and appurtenances." (21)

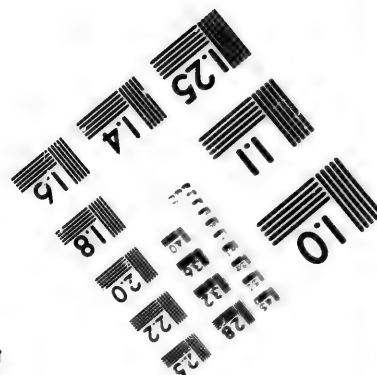
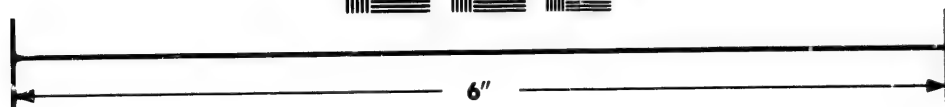
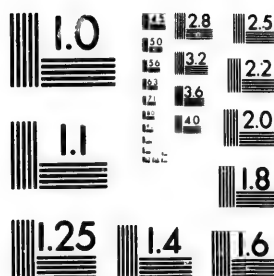
The lien of the ship-builder, as has been mentioned, is only good while he retains possession of the ship, and he cannot charge for the hire of the yard or dock while he retains such possession, unless he has agreed with the owner for such rent or hire. (22)

"Mortgagees are bound by engagements entered into by the mortgagors before the date of the mortgage. The mortgagor may retain possession of the ship, as against the mortgagee, till its arrival at its destination to fulfil engagements actually incurred before notice of





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the mortgagee's claim to possession ; but if he does retain possession and receive the freight, he must deliver up the ship free from any charge in respect of wages. If the mortgagor does not pay them, the mortgagee may recover them as for money paid." (23)

A mortgagee may at any time intercept the freight by giving notice to the mortgagor, consignee or charterer that he intends to exercise his right of property and requires the freight to be paid to him. (24)

Possession alone of a British ship does not give a title. (25)

A title to a ship may be acquired while in process of construction by contract without actual delivery, and may be also transferred while the ship is at sea by bill of sale without actual delivery. (26)

An equitable incumbrance, not registered, is postponed to a subsequent registered one. (27)

An equitable mortgagee, who has given notice to the master and taken possession of the ship at the end of the voyage, is ahead of the subsequent judgment creditor. (28)

A mortgage does not give the mortgagee the right to claim the freight from the mortgagor without taking possession. (29)

A mortgagee is a trustee at a sale under his mortgage, and cannot purchase himself. (30)

A subsequent mortgagee cannot exercise a power of sale unless by order of the court, except with the consent of the prior incumbrancers. (31)

Where the ship is under charter or a beneficial engagement, the power of sale cannot be registered. (32)

Mr. Foard, in his work on Merchant Shipping, gives, amongst others, the following as principles that must be followed in the bargain and sale of ships :

" 1. There must be no misstatement or misrepresentation in any way, by advertisement, notice or otherwise, calculated to mislead an intending purchaser, on any material point on which he cannot thoroughly inform himself.

" 2. There must be no intentional or designed concealment of any

material defect, to prevent the buyer acquiring knowledge until after the bargain has been made. Silence, if it produces a false impression on the mind of the purchaser, and lulls him into security in relation to a concealed defect, where he cannot acquire knowledge for himself, may, in some instances, be considered fraud.

"3. The acts of the agent in making or completing a bargain within his authority are those of the principal. A nod, a shake of the head, or any motion or expressive gesture intended to induce the purchaser or the seller, respectively, to believe in the existence of a non-existing fact, and which might influence the price of the thing to be sold, will be sufficient to set aside the contract.

"4. Any vendor of a chattel, knowing that the buyer relies upon his advice or judgment, thereby warrants to the buyer that neither the seller, nor any agent employed by him in the transaction, knows the existence of any fact concerning the thing sold, which would, to his knowledge, destroy the buyer's inducement to buy.

"5. One who, under an order, manufactures an article for a particular purpose, warrants by the sale, that it shall be reasonably fit for that particular purpose.

"6. The vendor, if also the manufacturer of an article, warrants on its sale to the buyer that it is free from any latent defect, not disclosed to the buyer, arising from the process of manufacture, and from the use of inferior, defective or improper materials.

"7. Any specific article sold, of which the qualities may be known by inspection, and which can be inspected, is warranted only to the purchaser, if his natural vigilance has been lulled by artifice, or he has been thrown off his guard. If the buyer is under a mistake, of which the vendor is ignorant, or of which he is aware, and the vendor does nothing directly or indirectly to bring it about, there is no warranty.

"8. Ordinarily the law will not assist a purchaser to rescind a contract on the ground of fraud, where he has not suffered injury and damage, nor when the fraud was known before the bargain, and both parties were equally well informed, '*Scientia, utrinque par, pares contrahentes facit*,' for no one is deceived. But a warranty is not nullified, if action is not immediately taken to set aside the contract,



on discovery that there has been a breach or that a fraud has been practised, though adverse conclusions would be drawn from unreasonable inertness.

"9. The seller is not bound to communicate facts to his own prejudice that are not material nor disclose every defect, especially such defects as a reasonable care and vigilance, with the opportunity of inspection, will disclose to the buyer himself. It is not a legal duty to correct mistakes which proceed from errors of judgment in relation to the subject-matter, where there is no equitable obligation to speak; or to announce and indicate defects, of which the buyer has actual or constructive notice or wilfully disregards.

"10. Fraud, in the contemplation of law, may be said to include all acts, omissions and concealments, which involve a breach of legal and equitable duty.

"Wherever the law implies a relationship of trust and confidence, the breach of that relationship, and of the duties it imposes, is a fraud. It may exist without a corrupt motive or dishonesty, as a bargain founded upon false representation made in mistake, will be avoided.

"11. The agent's fraud, to bind the principal, must be within the scope of his implied authority at the time it is committed, and, apparently, in furtherance of 'whatever is usual to carry out the object of his agency.' An agent can never have authority, either actual or ostensible, to do an act which is, and is known or believed by the person with whom he deals to be a fraud upon the principal.

"12. A statement made without knowledge by a principal or agent in selling an article, to secure a benefit to the principal or to deceive the buyer, is a warranty of the vendor's belief in the truth of the statement made, and is a fraud at the peril of the person making it. Knowledge of the falsehood is not necessary, if it has been made with the above motives, *i. e.*, fraudulently. (33)

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#### NOTES.

Sherwood et al v. Coleman, 6 Q. B. 614; Corby v. Cotton et al, 3 L. J. 50; Cayley v. McDonell, 8 Q. B. 454; Watkins et al v. Corbet, 6 Q. B. 587.

(2) Chisholm et al v. Potter, 11 C. P. 165.

(3) Gildersleeve v. Corby et al, 15 Q. B. 150.

(4) Gildersleeve v. Corby et al, 15 Q. B. 150.

- (5) *Scott v. Carveth et al*, 20 Q. B. 430.
- (6) *Chishlom et al v. Potter*, 11 C. P. 165.
- (7) *Wilson et al v. Cameron*, 22 C. P. 198.
- (8) *Van Every et al v. Grant*, U. C. Q. B. 21, 542.
- (9) *Holcomb v. Nixon*, 5 Chy. 278, 373.
- (10) *Batthyany v. Bouch*, 50 L. J., Q. B. 421; 44 L. T. 177.
- (11) *Anglo-Egyptian Nav. Co. v. Rennie*, L. R. 10 C. P. 271.
- (12) *Williams v. Allsup*, 30 L. J. (C. P.) 353.
- (13) *Wilkes v. Flint et al*, 4 O. S. 19.
- (14) *Shaw v. De Salaberry Navigation Co.*, 18 Q. B. 541.
- (15) *The Fanchon*, 5 P. D. 173; 50 L. J., P. 4; 29 W. R. 399—D.
- (16) *St. John v. Bullivant*, 45 Q. B. 614.
- (17) *St. John v. Bullivant*, 45 Q. B. 614.
- (18) *Merchants' Bank v. Graham*, 27 Chy. 524.
- (19) *Fuller v. Abrahams*, 3 Bro. and B. 116.
- (20) *Crowder v. Austin*, 3 Bing. 368; *Green v. Baverstock*, 32 L. J. C. P. 181.
- (21) *The Dundee*, 1 Hagg. Ad. 109, 122.
- (22) *Somes v. British Empire Ship. Co.*, 8 Ho. of Ld. 338; 28 L. J. Q. B. 220.
- (23) *Foard on Mer. Ship.* 169; *Williams v. Alsop*, 30 L. J. C. P. 353; *Bell v. Blyth*, 4 L. R. Ch. 136; *the Rose*, 4 L. R., A. and E. 6.
- (24) *Wilson v. Wilson*, 4 L. R. Ex 32.
- (25) *M. S. A.*, 1854, S. 57; *Atkinson v. Maling*, 2 T. R. 462.
- (26) *Woods v. Russel*, 5 B. and A. 942; *Sutton v. Buck*, 2 Taunt 302; *Atkinson v. Maling*, 2 T. R. 462.
- (27) *Wright v. Stanfield*, 27 Beav. 8 and 639; *re Wright*, 16 L. R. Eq. 41.
- (28) *Langdon v. Horton*, 1 Hare 549.
- (29) *Morrison v. Parsons*, 2 Taunt 407; *Willis v. Palmer*, 29 L. J. C. P. 194.
- (30) *Downes v. Glazebrook*, 3 Mer. 200; *Waters v. Groom*, 11 Cl. and F. 684.
- (31) *De Mattos v. Gibson*, 28 L. J., ch. 498.
- (32) *Collins v. Lamport*, 34 L. J., ch. 196; *Johnson v. R. M. S. P. Co.*, 3 L. R. C. P. 38.
- (33) *Foard's Merchant Shipping*, p. 129.

## CHAPTER VI.

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PART I.—NECESSARIES. PART II.—LIEN'S ON VESSELS. PART  
III.—BARRATRY. PART IV.—MARITIME LAW OF NATIONS.

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## PART I.—NECESSARIES.

Although the owners are bound by the master's contracts for fitting out and provisioning the ship, the persons furnishing supplies for such purposes have no maritime lien on the ship for same. (1)

A master may borrow money on the owner's credit for cash paid out and repairs, which are necessary to enable the ship to prosecute her voyage. (2)

But the master has no such power as above, where he can communicate with his owners, or his owner's agents without the delay being seriously against his owner's interests. (3)

To prove a claim against the owners under above cases the claimant must show the clear or presumed necessity of the repairs or supplies that such repairs or supplies were reasonably fit and proper under the circumstances. (4)

There must be nothing in any of above cases against the ordinary presumption that the master acted under his owner's authority. (5)

A master may borrow money on the credit of his owners to procure supplies necessary for the use of the ship while wind-bound. (6)

A lender is not required to see to application of the money lent, but he must prove the necessity of the loan at the time it was made, as otherwise the master will alone be liable. (7)

A master has no authority to borrow money on the owner's credit

to pay for repairs or supplies already provided on credit, or to pay a debt for which the owner was already liable. (8)

In the United States the master has authority to borrow money to pay for necessities to be bought or already purchased. (9)

Where a steamboat is in the possession of the mortgagees, who navigated her for their own benefit to secure their advances, and she was wrongfully taken possession of by the captain, who received the profits arising from her for his own use, the owner is not liable for goods furnished for the vessel while in the wrongful possession of the captain. (10)

In an action for goods supplied for a vessel at the request of the master of the vessel, it must be proved that the owners employed the master. (11)

Where a vessel is chartered the owner is not liable for supplies furnished to the person chartering or at the request of his agents, unless there is an express agreement to that effect between the owner and charterer. (12)

Where stewards of vessels contract to furnish certain supplies, no absolute rule can be laid down as to the liability of the owners for same. Each case must depend upon its own facts. Where the merchants supplying the goods knew of the contract the owners would not be liable; but otherwise he would be liable, if the merchant understood the stewards were acting as the owner's agents. (13)

A person buying a ship is not liable for necessities delivered after the transfer, even if they were ordered by the former owner or master before the sale.

A creditor has a double remedy by proceeding either against the master who made the contract or the owner for whom it was made.

Where a person at the request of the managing owner of a vessel makes certain repairs to her not knowing at the time that some other parties owned shares in her all the owners are jointly liable for such repairs. (14)

Where one part-owner of a ship takes possession of her and expends

in repairs more than her earnings, the other part-owner is not bound to contribute to the payment of the difference. (15)

## NOTES.

(1) *The Pacific Br.* and *L.* 243; *The Two Ellens*, *L. R.* 3 *Adm.* 356; *Kay M.* and *S.* 481.

(2) *Kay M.* and *S.*, 483.

(3) *Arthur v. Barton*, 6 *M.* and *W.* 143; *Beldon v. Campbell*, 6 *Ex.* 890; *Kay M.* and *S.* 486.

(4) *Webster v. Seekamp*, 4 *B.* and *Ald.* 352; *Arthur v. Barton*, 6 *M.* and *W.* 143; *Cary v. White*, 1 *Bro. P. C.* 284; *Kent's Com.* III. 230.

(5) *Webster v. Seekamp*, 4 *B.* and *Ald.* 352; *Kent's Com.* III. 229; *Kay M.* and *S.* 482.

(6) *Edwards v. Havill*, 14 *C. B.* 107.

(7) *Mackintosh v. Mitchell*, 4 *Ex.* 175; *Thacker v. Moates*, 1 *M.* and *Rob.* 79; *Kent Com.* III. 16.; *Kay M.* and *S.*, 484—5.

(8) *Beldon v. Campbell*, 6 *Ex.* 886; *Frost v. Oliver*, 2 *El.* and *Bl.* 301; *Kay M.* and *S.* 485.

(9) *Parsons Shipping*, II. 16; *Robinson v. Lyall*, 7 *Price*, 592.

(10) *Fraser v. Flint*, 40 *S.* 12; *Wilkes v. Flint*, 40 *S.* 19.

(11) *Hawn et al v. Roche*, 27 *C. P.* 142.

(12) *Lyman et al v. Bank U. C.*, 8 *Q. B.* 354.

(13) *Cloy et al v. Tagues et al*, 27 *Q. B.* 88.

(14) *Harrison v. Harris et al*, 1 *C. P.* 235.

(15) *Baker v. Casey*, 19 *Chy.* 537.

## CHAPTER VI.

PART II.

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## LIENS ON VESSELS.

All civilized nations recognize the validity of maritime liens, and will enforce same when declared by a foreign court. (1)

A vessel attached to a wharf by the usual fastenings cannot be seized for the rent of the wharf. (2)

A vessel seized for breach of the revenue laws having been replevied from the collector, the writ of replevin was set aside. (3)

Diligence in entering and prosecuting a suit to judgment is rewarded by the Maritime Court by being allowed priority. (4)

Liens for wages, master's disbursements, pilotage, towage, salvage, and bottomry all come in under the general rule that the last in time is the first to be paid, if there is not enough to pay all, although there are exceptions to this rule.

The chief reason for the rule being, that the last claimants were necessarily instrumental in saving the ship and cargo for the former ones. (5)

Seaman's wages are always favored by the court, and have priority over all other claims, notwithstanding which became due first. (6)

A master's wages and disbursements come after the sailors' wages, and are before all other claims, even where the master is part-owner, except claims which he has made himself liable for as master. (7)

A master's claims therefore come after a mortgage if he has bound his own shares in same. (8)

Liens for pilotage and towage being generally the last claims incurred, are usually allowed after wages. (9)

A ship-carpenter's lien for repairs comes after all the liens on the vessel at the time he receives charge of the vessel, except mortgages. (10)

Liens for damages sustained by collision have priority over wages, pilotage, towage, salvage, mortgages, and bottomry bonds. (11)

A noted writer on Merchant Shipping ranks liens in the following order :

" 1. Wages of the mariners subject to subsequent salvage.

" 2. Damage and salvage claims subject to subsequent but not prior wages of which precedence is taken.

" 3. The wages and disbursements of the master.

" 4. The Bottomry bond holder.

" 5. The possessory lien for necessities supplied by a shipwright, acquired subsequently to the bond.

" 6. Mortgagee.

" 7. Claim for necessities enforced by statute and by process in the Admiralty Court." (12)

Pilotage and towage bills usually come after wages and bottomry. (13)

In cases of general average, owners of cargo who have a liquidated claim for adjusted contribution against the ship have no lien on her for same under the law Maritime. (14)

A master can in cases of general average, enforce a lien on the freight for the contributions of the owners of the cargo. (15)

A lien on a ship covers the freight, and a lien on a cargo for the use of the ship also extends to the freight. (16)

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#### NOTES.

(1) *The Bold Buccleugh*, 7 Moo. P. C. 267 ; *the City of Mecca*, 6 P. D. 106 ; 50 L. J., P. 53 ; 44 L. T. 750 ; 4 Asp. M. C. 412—C. A.

(2) *Sanderson et al v. the Kingston Marine R. W. Co.*, 3 Q. B. 168.

(3) *Scott v. McRae*, 3 P. R. 16, C. L. Chamb-Robinson.

(4) *The Saracen*, 4 Notes of Cases 512 ; on appeal, 6 Moore P. C. 75 ; *the W. F. Safford*, 1 Lush. Ad. 69.

(5) The Sidney Cove., Fudge, 2 Dod's Ad. 1; Harmer v. Bell, 7 Moore P. C. 267; the Eliza Waddell, 3 Hagg. Ad. 89; the Betsy Hay, 1 Dod's Ad. 289; the Constancia, 10 Jur. 850; the Duke of Bedford, Morris, 2 Hagg. Ad. 294; the Selina, 2 Notes of Cases 18; the W. Safford, Lush Ad. 69.

(6) The Union, Lush Ad. 138; the Janet Wilson, Swab. Ad. 261; the Jonathan, Goodhue, Swab. Ad. 524; the Hersey, 3 Hagg. Ad. 404, 407; the Madonna D'Ibra, 1 Dods Ad. 37, 40; the Repulse, 4 Notes of Cases 166; the Constancia, 4 Notes of Cases 512.

(7) The Salacia, Lush. Ad. 545; the Feronia, L. R. 2 Ad. 65; the Daring, L. R. 2 Ad. 262.

(8) The Jenny Lind, L. R. 3 Ad. 532; the Mary Ann, L. R. 1 Ad. 8; the Jonathan, Goodhue, Swab. Ad. 524; the Feronia, L. R. 2 Ad. 65; the Daring, L. R. 2 Ad. 262.

(9) The Constancia, 4 Notes of Cases 512; the Mary Ann, 9 Jur. 95; the Betsy Hay, 1 Dods Ad. 289; the Eliza Weddell, 3 Hagg. Ad. 89; the Sidney Cove, Fudge, 2 Dods Ad. 1.

(10) The Gustaf, Lush. Ad. 506.

(11) The Benares, 7 Notes of Cases, Supp. 50, 54.

(12) Foard on Merchant Shipping, 216.

(13) The Constancia, 2 W. Rob. 487; The Eliza, 3 Hagg. 80; The Betsy, 1 Dods 239.

(14) The North Star, Lush. 45.

(15) Foard on Merchant Shipping, 232; Simonds v. White, 2 B. and C. 805; Scaife v. Tobin, 3 B. and Ad. 523.

(16) Abb. on Ship. 117; The Gratitude, 3 C. Rob. 240; The Constancia, 10 Jur. 845; The Dowthorpe, 2 W. Rob. 79.



## CHAPTER VI.

## PART III.

## BARRATRY.

Barratry is one of the perils insured against in the ordinary form of policy and is a breach of duty of the master or mariners with a fraudulent or criminal intent. Examples are, running the ship on shore without any justifying necessity, running away with her, and selling her, weighing under a foul wind, smuggling &c. (1)

An act is not barratrous except when it is to the prejudice of the owner. (2)

If any one unlawfully and maliciously sets fire to or in any way destroys any ship or vessel, whether complete or unfinished, or sets fire to, casts away or destroys any vessel with intent to injure any owner or part-owner of the ship or cargo or any insurance company having a policy on same, he is guilty of felony.

Piracy. Any acts of robbery and depredation committed upon our Great Lakes, (although in American waters,) which if committed on land would have amounted to felony, are piracy. (3)

No loss occasioned by the mere ignorance, incompetence or carelessness of the master can be called barratry.

## NOTES.

(1) *Gorham v. Sweeting*, 2 Wms. Saund, 202 C. N. 13; *Earle v. Roweroff*, 8 East. 126; *Vallejo v. Wheeler*, 1 Cowp. 143; 2 Arnould Ins. 705; *Soures v. Thornton*, 7 Taunt. 627; *Faulkner v. Ritchie*, 2 M. and Sel. 290; *Dixon v. Reid*, 5 B. and Ald. 597; *Jones v. Nicholson*, 10 Exch. 28; *Heyman v. Parish*, 2 Camp. 149; *Havelock v. Hansill*, 3 T. R. 227.

(2) *Hobbs v. Hannam*, 3 Camp. 63; *Pipon v. Cole*, 1 Camp. 434; *Stamma v. Brown*, 2 Str. 1173; *Nutt v. Bourdieu*, 1 T. R. 323.

## CHAPTER VI.

## PART IV.

## MARITIME LAW OF NATIONS.

By the Treaty of Paris, the following rules are law during times of war :

" 1. Privateering is, and remains abolished.

" 2. The neutral flag covers enemy's goods, with the exception of contraband of war.

" 3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag.

" 4. Blockades, in order to be binding, must be effective ; that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

The above is not binding except between those powers who have acceded or shall accede to it.

The United States acceded to all the above rules but the first one, appertaining to the abolition of privateering.

The above are now the leading principles of the law of nations as affecting the freedom of commercial intercourse during the existence of war, but they may, by mutual agreement between two powers, be varied or departed from, and the law of nations only governs so far as it is not changed by treaty.

" By the Maritime Law of Nations, universally and immemorially received, there is an established method of determination whether captures be or be not lawful prize.

" Before the ship or goods can be disposed of by the capture there must be a regular judicial proceeding wherein both parties may be

heard, and condemnation thereupon as prize in a Court of Admiralty judging by the Law of Nations and Treaties.

"The proper and regular court for these condemnations is the court of that State to whom the captor belongs.

"The evidence to acquit or condemn with or without costs or damages, must in the first instance, come merely from the ship taken, viz., the papers on board and the examination on oath of the master and the other principal officers, for which purpose there are officers of admiralty in all the considerable sea ports of every maritime power at war, to examine the captains and other [principle] officers of every ship brought in as prize upon general and impartial interrogatories. If they do not appear from thence, ground to condemn as enemy's property, or contraband goods going to the enemy, there must be an acquittal, unless from the evidence aforesaid the property shall appear so doubtful that it is reasonable to go into further proof thereof.

"The Law of Nations requires good faith. Therefore every ship must be provided with complete and genuine papers; and the master at least, should be privy to the truth of the transaction."

## APPENDIX.

## NAVIGATION RULES.

## 43 VICTORIA.

## CHAP. 29.

An Act to make better provision respecting the navigation of Canadian waters.

[Assented to 7th May, 1880.]

WHEREAS the regulations for preventing collisions between vessels navigating Canadian waters, embodied in the Act of the Parliament of Canada hereinafter mentioned, were founded upon those then in force for the like purpose in the United Kingdom; and whereas in the exercise of the power given by the Act of the Parliament of the United Kingdom, known as "*The Merchant Shipping Act Amendment Act, 1862*," Her Majesty, acting on the joint recommendation of the Admiralty and the Board of Trade, has, by an Order in Council bearing date the fourteenth day of August, 1879, annulled the regulations aforesaid, and has substituted for them others of the tenor and effect of those embodied in

this Act (except only as to rafts and the Harbor of Sorel), and has directed that they shall come into force on the first day of September, 1880; and whereas the governments of the several foreign countries mentioned in the Schedule to this Act have already, under the provisions made in the said Act, agreed that the said regulations shall apply to the ships of such countries, respectively, when beyond the limits of British jurisdiction, and it is highly expedient and desirable that they should be extended to and prevail throughout all the waters of the Dominion of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. This Act shall come into force on the first day of September next after its passing, and on and after the said day the Act of the Parliament of Canada passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act respecting the navigation of Canadian waters*," and the enactments extending it to the Provinces of Manitoba, British Columbia and Prince Edward Island, respectively, shall be repealed, except only as regards offences committed against or liabilities incurred under the said Act before the said day, with respect to which and all proceedings relating to which, the said Act shall remain in force; but the repeal of the said Act shall not revive any Act or provision of law thereby repealed.

#### REGULATIONS FOR PREVENTING COLLISIONS.

2. And with respect to lights, fog signals, steering and sailing, and rafts, the following rules shall, on and after the day last aforesaid, apply to all the rivers, lakes, and other navigable waters within the Dominion of Canada, or within the jurisdiction of the Parliament thereof; that is to say :

#### *Preliminary.*

Art. 1. In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship; and every steam ship which is under steam, whether under sail or not, is to be considered a ship under steam.

#### *Rules concerning Lights.*

Art. 2. The lights mentioned in the following Articles, num-

bered 3, 4, 5, 6, 7, 8, 9, 10, and 11, and no others, shall be carried in all weathers, from sunset to sunrise.

Art. 3. A steam ship when under way shall carry -

- (a) On or in front of the foremast, at a height above the hull of not less than twenty feet, and if the breadth of the ship exceeds twenty feet then at a height above the hull not less than such breadth, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass; so fixed as to throw the light ten points on each side of the ship, viz., from right ahead to two points abaft the beam on either side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.
- (b) On the starboard side, a green light so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass; so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.
- (c) On the port side, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass; so fixed as to throw the light from right ahead to two points abaft the beam on the port side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.
- (d) The said green and red side lights shall be fitted with in-board screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. A steam ship, when towing another ship, a raft or rafts, shall, in addition to her side lights, carry two bright white lights in a vertical line one over the other, not less than three feet apart, so

as to distinguish her from other steam ships. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light which other steam ships are required to carry.

Art. 5. A ship, whether a steam ship or a sailing ship, when employed either in laying or in picking up a telegraph cable, or which from any accident is not under command, shall at night carry, in the same position as the white light which steam ships are required to carry, and, if a steam ship, in place of that light, three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line one over the other, not less than three feet apart : and shall by day carry in a vertical line one over the other, not less than three feet apart, in front of but not lower than her foremast head, three black balls or shapes, each two feet in diameter.

(a.) These shapes and lights are to be taken by approaching ships as signals that the ship using them is not under command, and cannot therefore get out of the way.

(b.) The above ships, when not making any way through the water, shall not carry the side lights, but when making way shall carry them.

Art. 6. A sailing ship under way, or being towed, shall carry the same lights as are provided by Article 3 for a steam ship under way, with the exception of the white light, which she shall never carry.

Art. 7. Whenever, as in the case of small vessels during bad weather, the green and red side lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use ; and shall on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the

color of the light they respectively contain, and shall be provided with proper screens.

Art. 8. A ship, whether a steam ship or a sailing ship, when at anchor, shall carry, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear, uniform and unbroken light visible all around the horizon, at a distance of at least one mile.

Art. 9. A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

(a) A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships.

Art. 10. (a) Open fishing boats and other open boats when under way shall not be obliged to carry the side lights required for other vessels; but every such boat shall in lieu thereof have ready at hand a lantern with a green glass on the one side and a red glass on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

(b) A fishing vessel, and an open boat, when at anchor, shall exhibit a bright white light.

(c) A fishing vessel, when employed in drift net fishing, shall carry on one of her masts two redlights in a vertical line one over the other, not less than three feet apart.

(d) A trawler at work shall carry on one of her masts two lights in a vertical line one over the other, not less than three feet apart, the upper light red, and the lower green, and shall also either carry the side lights required for other vessels, or, if the side lights cannot be carried, have ready



at hand the colored lights as provided in Article 7, or a lantern with a red and a green glass as described in paragraph (a.) of this Article.

- (e.) Fishing vessels and open boats shall not be prevented from using a flare up light in addition, if they desire to do so.
- (f.) The lights mentioned in this Article are substituted for those mentioned in the 12th, 13th and 14th Articles of the Convention between France and England scheduled to the British Sea Fisheries Act, 1868.
- (g.) All lights required by this Article, except side lights, shall be in globular lanterns so constructed as to show all round the horizon.

Art. 11. A ship which is being overtaken by another shall show from her stern to such last mentioned ship a white light or a flare up light.

*Sound Signals for Fog, &c.*

Art. 12. A steam ship shall be provided with a steam whistle or other efficient steam sound signal, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog horn to be sounded by a bellows or other mechanical means, and also with an efficient bell. A sailing ship shall be provided with a similar fog horn and bell.

In fog, mist, or falling snow, whether by day or night, the signals described in this Article shall be used as follows; that is to say,

- (a.) A steam ship under way shall make with her steam whistle, or other steam sound signal, at intervals of not more than two minutes, a prolonged blast.
- (b.) A sailing ship under way shall make with her fog horn, at intervals of not more than two minutes, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.
- (c.) A steam ship and a sailing ship, when not under way shall, at intervals of not more than two minutes, ring the bell.

*Speed of Ships to be moderate in Fog, &c.*

Art. 13. Every ship, whether a sailing ship or steam ship, shall, in a fog mist, or falling snow, go at a moderate speed.

*Steering and Sailing Rules.*

Art. 14. When two sailing ships are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, viz :

- (a) A ship which is running free shall keep out of the way of a ship which is close-hauled :
- (b) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack :
- (c) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other :
- (d) When both are running free with the wind on the same side, the ship which is to windward shall keep out of the way of the ship which is to leeward :
- (e) A ship which has the wind aft shall keep out of the way of the other ship.

Art. 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

- (a) This Article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other :
- (b) The only cases to which it does apply are, when each of the two ships is end on, or nearly end on, to the other : in other words, to cases in which, by day, each ship sees the masts of the other in a line, or nearly in a line, with her own ; and by night, to cases in which each ship is in such a position as to see both the side lights of the other :

(c) It does not apply by day, to cases in which a ship sees another ahead crossing her own course ; or by night, to cases where the red light of one ship is opposed to the red light of the other, or where the green light of one ship is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

Art. 16. If two ships under steam are crossing, so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 17. If two ships, one of which is a sailing ship, and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship.

Art. 18. Every steam ship, when approaching another ship, so as to involve risk of collision, shall slacken her speed or stop and reverse, if necessary.

Art. 19. In taking any course authorized or required by these Regulations, a steam ship under way may indicate that course to any other ship which she has in sight by the following signals on her steam whistle, viz.:

One short blast to mean "I am directing my course to starboard" :

Two short blasts to mean "I am directing my course to port."

Three short blasts to mean "I am going full speed astern."

The use of these signals is optional ; but if they are used, the course of the ship must be in accordance with the signal made.

Art. 20. Notwithstanding anything contained in any preceding Article, every ship, whether a sailing ship or a steam ship, overtaking any other, shall keep out of the way of the overtaken ship.

Art. 21. In narrow channels every steam ship shall, when it is safe and practicable, keep to that side of the fairway or midchannel which lies on the starboard side of such ship.

Art. 22. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course.

Art. 23. In obeying and construing these rules due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

*No ship, under any circumstances, to neglect proper precautions.*

Art. 24. Nothing in these rules shall exonerate any ship, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

*Reservation of Rules for Harbors and Inland Navigation.*

Art. 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river, or inland navigation.

*Special Lights for Squadrons and Convoys.*

Art. 26. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war or for ships sailing under convoy.

RAFTS AND HARBOR OF SOREL.

Art. 27. Rafts, while drifting or at anchor on any of the waters of Canada, shall have a bright fire kept burning on them from sunset to sunrise. Whenever any raft is going in the same direction as another which is ahead, the one shall not be so navigated as to come within twenty yards of the other, and every vessel meeting or overtaking a raft shall keep out of the way thereof.

(a) Rafts shall be so navigated and anchored as not to cause any

unnecessary impediment or obstruction to vessels navigating the same waters.

Art. 28. Unless it is otherwise ordained by the Harbor Commissioners of Montreal, ships and vessels entering or leaving the Harbor of Sorel shall take the port side, anything in the preceding articles to the contrary notwithstanding.

Art. 29. The rules of navigation contained in articles 27 and 28, shall be subject to the provisions contained in articles 23 and 24.

INTERPRETATION, PENALTIES, &c.

3. In this Act the word "vessel" includes every description of vessel used in navigation ; the word "ship" includes every description of vessel not propelled by oars ; the expression "steamship" or "steamboat" includes every vessel propelled wholly or in part by steam or by any machinery or power other than sails or oars ; and the expression "ordinary practice of seamen," as applied to any case, means and includes the ordinary practice of skilful and careful persons engaged in navigating the waters of the Dominion of Canada in like cases ; and the word "owner" includes the lessee or charterer of any vessel having the control of the navigation thereof.

4. No rule or by-law of the Harbor Commissioners of Montreal or the Trinity House of Quebec, or Quebec Harbor Commissioners, or other local rule or by-law inconsistent with this Act, shall be of any force or effect ; but so far as it is not inconsistent with this Act, any such rule or by-law made by the said Harbor Commissioners of Montreal or Trinity House of Quebec, or Quebec Harbor Commissioners, or other competent local authority shall be of full force and effect within the locality to which it applies.

5. All owners, masters and persons in charge of any ship, vessel, or raft, shall obey the rules prescribed by this Act, and shall not carry and exhibit any other lights nor use any other fog signals than such as are required by the said rules ; and in case of wilful default, such master or person in charge, or such owner, if it appears that he was in fault, shall, for each occasion on which any of the said rules is infringed, incur a penalty not exceeding two hundred dollars nor less than twenty dollars.

6. If in any case of collision it appears to the court before which the case is tried, that such collision was occasioned by the non-observance of any of the rules prescribed by this Act, the vessel or raft by which such rules have been infringed shall be deemed to be in fault: unless it can be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary.

7. In case any damage to person or property arises from the non-observance by any vessel or raft of any of the rules prescribed by this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of such raft, or of the deck of such vessel at the time, unless the contrary be proved, or it be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary; and the owner of the vessel or raft, in all civil proceedings, and the master or person in charge as aforesaid, or the owner, - if it appears that he was in fault, - in all proceedings, civil or criminal, shall be subject to the legal consequences of such default.

8. Provided always, that in any cause or proceeding for damages arising out of a collision between two vessels, or a vessel and a raft, if both vessels or both the vessel and the raft are found to have been in fault, the rules heretofore in force in the Court of Admiralty in England, and now in "Her Majesty's High Court of Justice," under the "Supreme Court of Judicature Act, 1873," so far as they are at variance with the rules in force in the Courts of Common Law, shall prevail, and the damages shall be borne equally by the two vessels, or the vessel and the raft, one half by each.

9. Unless herein otherwise provided, all penalties incurred under this Act may be recovered in the name of Her Majesty, by any Inspector of Steamboats, or by any party aggrieved by any act, neglect or wilful omission by which the penalty is incurred, before any two Justices of the Peace, on the evidence of one credible witness, and in default of payment of such penalty, such justices may commit the offender to jail for any period not exceeding three months; and, except as hereinafter provided, all penalties recovered under this Act shall be paid over to the Receiver General, and shall

be by him placed at the credit of and shall form part of "the Steamboat Inspection Fund"; except always, that all penalties incurred for any offence against this Act shall, if such offence be committed within the jurisdiction of the Quebec Harbor Commissioners, or of the Harbor Commissioners of Montreal, be sued for, recovered, enforced and applied in like manner as penalties imposed for the contravention of the by-laws of the Harbor Commissioners within whose jurisdiction the offence is committed.

**10.** Every Inspector of Steamboats shall, whenever he visits and inspects any steamboat, examine whether such steamboat is properly furnished with lights and with means of making fog-signals in pursuance of the rules prescribed by this Act, and shall for that purpose have all the powers vested in him by the Act passed in the thirty-first year of Her Majesty's Reign, and intituled "*An Act respecting the inspection of steamboats, and for the greater safety of passengers by them,*" and the Acts amending it, for obtaining information as to the observance of the requirements of the said Acts, and shall refuse to grant any certificate with respect to any steamboat which he finds to be not so provided, and shall report such steamboat as unsafe to the Governor in Council, who shall, on such report, have all the powers mentioned in section thirty of the said Act; and any Order in Council made on such report shall have the effect and be enforced in the manner provided by the said section.

**11.** Whenever foreign ships are within Canadian waters the rules for preventing collision prescribed by this Act, and all provisions of this Act relating to such rules, or otherwise relating to collisions, shall apply to such foreign ships; and in any case arising in any court of justice in Canada concerning matters happening within Canadian waters, foreign ships shall, so far as regards such rules and provisions, be treated as if they were British or Canadian ships.

DUTY OF MASTERS: LIABILITY OF OWNERS AS TO COLLISIONS.

**12.** In every case of collision between two ships, it shall be the duty of the person in charge of each ship, if and so far as he can do so without danger to his own ship and crew, to render to the other ship, her master, crew or passengers (if any), such assistance as may be practicable, and as may be necessary in order to save them from any

danger caused by such collision; and also to give to the master or other person in charge of the other ship the name of his own ship and of her port of registry, or of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound: in case he fails to do so, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default:

Every master or person in charge of a British or Canadian ship, who fails, without reasonable cause, to render such assistance, or to give such information as aforesaid, shall be deemed guilty of a misdemeanor; and if he is a certificated officer under Canadian authority, an inquiry into his conduct may be held, and his certificate may be cancelled or suspended.

**13.** The owners of any ship, whether British, Canadian or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity, that is to say,

(1.) Where any loss of life or personal injury is caused to any person being carried in such ship,

(2.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship,

(3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person in any other ship or boat, —

(4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise or other things whatsoever on board any other ship or boat, —

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise or other things, nor in respect of loss or damage to ships, goods, merchandise or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding thirty-eight dollars and ninety-two cents for each ton of the ship's tonnage,—such tonnage to be the registered tonnage



in the case of sailing ships ; and in the case of steamships the gross tonnage without deduction on account of engine room ;

(a) In the case of any British or Canadian ship, such tonnage shall be the registered or gross tonnage, according to the British or Canadian law, and in the case of a foreign ship which has been or can be measured according to British or Canadian law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship ;

(b) In the case of any foreign ship which has not been and cannot be measured according to British or Canadian law the Deputy of the Minister of Marine and Fisheries shall, on receiving from or by direction of the court hearing the case, such evidence concerning the dimensions of the ship as it may be found practicable to furnish, give a certificate under his hand, stating what would, in his opinion, have been the tonnage of such ship if she had been duly measured according to Canadian law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

14. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

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#### SCHEDULE.

Austria-Hungary.	Netherlands.
Belgium.	Norway.
Chili.	Portugal.
Denmark.	Russia.
France.	Spain.
Germany.	Sweden.
Great Britain.	United States of
Greece.	America.
Italy.	.

The question of limited liability was fully discussed in the case of the *Waubuno*.

The Georgian Bay Transportation Co. v. Fisher, 5 Appeal Reports 383.

By Order in Council of Thursday, 10th day of July, 1879, and under the provisions of the 65th and 66th sections of the Act, 31 Viet., chap. 12 :

Mail steamers navigating the canals or passing through any of the locks of the Dominion have priority of passing over all other vessels whatsoever ; and any violation of this order subjects the offending party to a penalty of not less than four dollars and not exceeding twenty for each offence.

*Fide Canada Gazette*, Vol. 13, p. 37.

## UNITED STATES PILOT RULES FOR LAKE AND SEABOARD.

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### RULE I.—

When steamers are approaching each other "head and head" or nearly so, it shall be the duty of each steamer to pass to the right, or on the port side of the other; and the pilot of either steamer may be first in determining to pursue this course, and thereupon shall give, as a signal of his intention one short and distinct blast of his steam whistle, which the pilot of the other steamer shall answer promptly by a similar blast of his steam whistle, and thereupon such steamers shall pass to the right, or on the port side of each other. But if the course of such steamers is so far on the starboard of each other as not to be considered by the pilots as meeting "head and head" or nearly so; or, if the vessels are approaching each other in such a manner that passing to the right (as above directed) is deemed unsafe by the pilot of either vessel, the pilot so first deciding shall immediately give two short and distinct blasts of his steam whistle, which the pilot of the other steamer shall answer promptly by two similar blasts of his steam whistle, and they shall pass to the left, or on the starboard side of each other.

NOTE.—In the night, steamers will be considered meeting "head and head," so long as both the colored lights of each are in view of the other. In the day, a similar position will also be considered "head and head."

### RULE II.—

When steamers are approaching each other in an oblique direction, they shall pass to the right of each other, as if meeting "head and head" or nearly so, and the signals by whistle shall be given and answered promptly as in that case specified.

### RULE III.—

If, when steamers are approaching each other, the pilot of either vessel fails to understand the course or intention of the other, whether

from the signals being given or answered erroneously, or from other causes, the pilot so in doubt shall immediately signify the same by giving several short and rapid blasts of the steam whistle; and if the vessels shall have approached within half a mile of each other both shall be immediately slowed to a speed barely sufficient for steerage-way, until the proper signals are given, answered and understood, or until the vessels shall have passed each other.

## RULE IV.—

When steamers are running in a fog or thick weather, it shall be the duty of the pilot to cause a long blast of the steam whistle to be sounded, at intervals not exceeding one minute, and no steamer shall in any case be justified in coming in collision with another vessel if it be possible to avoid it.

## RULE V.—

Whenever a steamer is nearing a short bend or a curve in the channel, where, from the height of the banks or other cause, a steamer approaching from the opposite direction cannot be seen for a distance of half a mile, the pilot of such steamer when he shall have arrived within half a mile of such curve or bend, shall give a signal by one long blast of the steam whistle, which signal shall be answered by a similar blast, given by the pilot of any approaching steamer that may be within hearing.

Should such signal be so answered by a steamer upon the further side of such bend, then the usual signals for meeting and passing shall immediately be given and answered; but if the first alarm signal of such pilot be not answered, he is to consider the channel clear and govern himself accordingly.

## RULE VI.—

The signals, by the blowing of the steam whistle, shall be given and answered by pilots in compliance with these rules, not only when meeting "head and head" or nearly so, but at all times when passing or meeting at a distance within half a mile of each other, and whether passing to the starboard or port.

N. B.—The foregoing rules are to be complied with in all cases, except when steamers are navigating in a crowded channel, or in the vicinity of wharves; under such circumstances, steamers must be run

and managed with great caution, sounding the whistle, as may be necessary, to guard against collision or other accidents.

**RULE VII.—**

All steamers rigged for carrying sail, when under way, must carry a bright white light at the foremast head, and all other steamers must carry a bright white light on the stem or near the bow, and another on a mast near the stern or on the flag-staff at the stern, the last named being at an elevation of at least twenty feet above all other lights upon the steamer. All steamers must carry a green light upon the starboard side and a red light upon the port side.

**NOTE.**—Steamers although rigged for carrying sail, instead of the foremast head light, may adopt the forward and stern lights provided for steamers not rigged for carrying sail, provided said lights are so arranged and placed on the vessel as to secure the contemplated objects.

**When at anchor** a bright white light shall be exhibited at least twenty feet above the surface of the water, the lantern so constructed and placed as to show a good light all around the horizon.

**RULE VIII.—**

When two steamers are approaching the Narrows, known as "Hell-gate," on the East River, at New York, side by side, or nearly so, running in the same direction, the steamer on the right, or starboard, hand of the other (when approaching from the west), when they shall have arrived abreast of the north end of Blackwell's Island, shall have the right of way, and the steamer on the left or port side of the other shall check her way and drop astern. In like case, when two steamers are approaching from the east, and are abreast of Negre Point, the steamer on the right or starboard hand of the other shall have the right of way, and shall proceed on her course without interference, and the steamer on the port side of the other shall keep at a safe distance astern (not less than three lengths) until both steamers have passed through the difficult channel.

**RULE IX.—**

Steam vessels when towing other vessels shall carry two bright white masthead lights vertically in addition to their side lights, so as to distinguish them from other steam vessels. Each of these mast-

head lights shall be of the same construction and character as the masthead lights which other steam vessels are required to carry; and, in addition to the lights herein referred to, when engaged in towing canal boats and barges, or both, as is customary on the Hudson and other rivers, white lights shall also be carried on the extreme outside of the tow on either hand, and also on the extreme after part of the same.

#### RULE X. —

When steamers are running in a fog or thick weather, and the pilots elect to lay by, or, as it is usual to say, drift, or if at anchor with steam up, in the fair way of other steamers, it shall be the duty of the pilot to cause three distinct blasts of the steam whistle to be sounded at intervals not exceeding three minutes. *Provided, however,* That nothing herein shall be construed to in any way conflict with Rule IV., regulating fog signals when under way.

NOTE. — The object of this rule is to give timely notice to approaching steamers that the steamer giving such signal is lying still or at anchor, as the case may be, in thick weather.

1. The masthead light of steamers rigged for carrying sail to be visible at a distance of at least five miles on a clear, dark night, and the lantern to be so constructed as to show a uniform and unbroken light over an arc of the horizon of twenty points of the compass, viz.: from right ahead to two points abaft the beam on either side of the ship.

2. The stem and stern-lights of steamers not rigged for carrying sail to be visible at a distance of at least five miles on a clear, dark night, and the respective lanterns to be so constructed that the stem-lights shall show a uniform and unbroken light over an arc of the horizon of twenty points of the compass, viz.: from right ahead to two points abaft the beam on either side of the ship, and that the stern-light shall show a uniform light all around the horizon.

3. The colored side-lights to be visible at a distance of at least two miles on a clear, dark night, and the lanterns to be so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, viz.: from right ahead to two points abaft the beam on their respective sides.

4. The side-lights are to be fitted <sup>on the vessel</sup> with inboard screens of at least three feet in length (clear of the lantern), to prevent them from being seen across the bow, the screens to be placed in a fore-and-aft line with the inner edge of the side lights and in contact therewith.

Note 1st.—The object of carrying the bright, white light at the foremast head of steamers rigged for carrying sail is merely to intimate to other vessels the approach or presence of such steamers.

Note 2nd.—The object of the colored lights required to be carried on all steamers is to indicate to other vessels the course or direction such steamer may be steering.

Note 3rd.—The object of requiring steamers not rigged for carrying sail to carry a white stern light in connection with a white light on the stem or near the bow, is to provide (when the vessel's rig will admit of it) by a central range of lights, a method of determining more correctly the course that such vessel is steering.

#### RULE XI.—

When steamers are running in the same direction, and the pilot of the steamer which is astern shall desire to pass on the right or starboard hand of the steamer ahead, he shall give one short blast of the steam whistle as a signal of such desire and intention, and shall put his helm to port; and the pilot of the steamer ahead shall answer by the same signal, or, if he prefer to keep on his course, he shall make the necessary signals, and the boat wishing to pass must govern herself accordingly, but the boat ahead shall in no case attempt to cross her bow or crowd upon her course.

#### **Rule 44 of the Rules and Regulations for the Inspection of Steamboats in the United States provides as follows :**

Rule 44.—The navigation of every passenger-steamer above one hundred tons burden shall be under the control of a first-class pilot, and every such pilot shall be limited in his license to the particular service for which he is adapted. Special pilots may also be licensed for small steamers of all kinds locally employed.

On all waters other than rivers flowing into the Gulf of Mexico second-class pilots may be allowed to take charge of steamers not exceeding one hundred tons burden, and may be authorized by the

license granted to act in charge of a watch as assistant to a first-class pilot on freight and towing steamers of all tonnage.

All passenger and ferry steamers shall, in addition to the regular pilot on watch, have one of the crew also on watch in or near the pilot house, and this rule applies to all steamers navigating in the night-time.

Rule 71.—Steamers of one thousand tons and under, carrying passengers in the night-time, navigating rivers, lakes, bays or sounds, shall at all times from sundown to sunrise, have a watchman on duty *at the bow* and on each deck below the hurricane deck; and all steamers of more than one thousand tons shall have two watchmen on the lower deck, one on the main deck and two on the stateroom deck; and all steamers on western and southern rivers shall have an additional watchman on the hurricane deck. All sea going steamers shall have a watchman on duty at all times during the night in each cabin and in the steerage.

#### ADDED 1885.

All barges in tow of steamers (except upon the Red River of the North, and rivers whose waters flow into the Gulf of Mexico) between sunset and sunrise shall have their signal lights, as required by law, placed in a suitable manner on the bows of the outside forward boats, namely, a green light on the starboard bow of the starboard barge, and a red light upon the port bow of the port barge, when two or more barges are being towed side by side. Said lights shall not be less than ten feet above the surface of the water. When being towed singly, said barge shall have the red and green lights as required by law, said lights to be not less than ten feet above the water.

Masters and pilots of passenger steamers shall exclude from the pilot-house of such steamers, while under way, all persons not connected with the navigation of such steamers, except officers of the Steamboat Inspection Service, licensed officers of steamboats and persons regularly engaged in learning the profession of pilot. The supervising inspectors, however, shall have the power, if in their judgment it will not endanger life on board of such passenger steamers to grant permits authorizing the masters of such steamers, except when such steamers are making excursions under permits granted by the In-



spectors, to allow a limited number of such persons, as they may deem proper, in the pilot houses of such steamers between the hours of sunrise and sunset, on the condition that such persons will not in any way interfere with the pilots in the performance of their duties.

In case of the violation of the conditions of any permit, such permit shall, upon demand, be surrendered to the supervising inspector having jurisdiction, and no such permit shall again be issued to any such master by any supervising inspector of the district to whom it was surrendered, and not by him until it shall be shown to his satisfaction that all the provisions of such permit will thereafter be complied with.

## UNITED STATES PILOT RULES FOR LAKE AND SEABOARD.

### RELATING TO DISCIPLINE.

Rule 56. —It shall be the duty of an engineer, when he assumes charge of the boilers and machinery of a steamer, to forthwith thoroughly examine the same, and if he finds any part thereof in bad condition, caused by neglect or inattention on the part of his predecessor, he shall immediately report the facts to the local inspectors of the districts, who shall thereupon investigate the matter; and if the former engineer has been culpably derelict of duty they shall suspend or revoke his license.

Rule 57. —It shall be the duty of the master of every inspected steamer carrying passengers on the ocean, lakes, gulfs or bays, when such steamer is under way, to cause to be prepared a station-bill for his own department, and one also for the engineer's department, in which shall be assigned a post or station of duty for every person employed on board such steamer in case of fire or other disaster; which station-bills shall be placed in the most conspicuous places on board for the observation of the crew. And it shall be the duty of such master, or of the mate or officer next in command, once at least in each week to call all hands to quarters, and exercise them in the discip-

line and use of the fire pumps and all other apparatus for the safety of life on board of such vessel, and to see that all the equipments required by law are in complete working order for immediate use; and the fact of the exercise of the crew, as herein contemplated, shall be entered upon the steamer's log book, stating the day of the month and the hour when so exercised; and any neglect or omission on the part of the officer in command of such steamer to strictly enforce said rule, shall be deemed cause for the revocation of the license of such officer.

Rule 58.—It shall be the duty of the mate of every steamer carrying passengers to assign to deck or steerage passengers the space they may occupy on board, during the voyage; and to supervise the stowage of freight or cargo, and see that the space so set apart for passengers is not encroached upon. He shall also carefully examine all packages of freight delivered on board for shipment, with a view to detect and prevent any combustible or dangerous articles being delivered on board without his knowledge.

Rule 67.—All the equipments of a steamer, such as buckets, axes, hose, boats, oars, rafts, life-preservers, floats, barrels, tanks, etc., shall be painted or branded with the name of the steamer to which they belong.

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## COASTING AND SMUGGLING REGULATIONS.

16 VICTORIA, CHAP. 12.

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16. No goods shall be unladen from any vessel arriving at any port or place in Canada, from any place out of Canada, nor from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within three leagues of the coast, until due entry has been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen (unless for the purpose of lightening the ship or vessel in crossing over a shoal or bar, or sand-bank) except between sunrise and sunset, and on some day not being

a Sunday or a statutory holiday, and at some hour and place at which an officer of the Customs is appointed to attend the unloading of goods, or at some place for which a sufferance has been granted by the Collector or other proper officer, for the unloading of such goods; and if, after the arrival of the vessel within three leagues of the coast, any alteration be made in the stowage of the cargo so as to facilitate the unlawful unloading of any part thereof, or if any part thereof be fraudulently staved, destroyed or thrown overboard, or any package be opened, it shall be deemed a breaking of bulk; and all goods unladen contrary to this Act shall be seized and forfeited; and if bulk be broken contrary to this Act, the master shall forfeit two hundred dollars, and the vessel may be detained until the said fine is paid, or satisfactory security is given for the payment thereof; and unless payment be made or security be given, within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty.

**18.** All goods imported into Canada, whether by sea, land, coastwise, or by inland navigation, whether dutiable or not, must be brought in at a port of entry where a Custom House is lawfully established.

**19.** All goods or merchandise exported by sea, land, or by inland navigation, must be reported at the nearest Custom House, or, if exported from any place where no Custom House is established, they must be reported within twenty-four hours of the time of such export, at the nearest Custom House, according to such regulations as may be established by the Governor in Council from time to time.

**20.** If any goods are imported into Canada at any other place, than at some port or place of entry at which a Custom House is then lawfully established, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom House, or removed from the place appointed for the examination of such goods by the Collector or other officer of the Customs at such port or place, before the same have been examined by the proper officer, and all duties thereon paid and a permit given accordingly, such goods shall be seized and forfeited; and each and every person concerned in such unlawful importation or removal shall be subject to a penalty equal to the value of such goods.

**21.** If any vessel with dutiable goods on board, enters any place other than a Port of Entry (unless from stress of weather or other unavoidable cause), such goods (except those of an innocent owner) shall be seized and forfeited, together with the vessel in which the same were imported,—if such vessel is of less value than eight hundred dollars.

**22.** If any vessel worth more than eight hundred dollars, with dutiable goods on board, enters any place other than a Port of Entry

(unless from stress of weather or other unavoidable cause) such goods (except those of an innocent owner) shall be seized and forfeited, and the vessel may be seized, and the master or person in charge thereof shall incur a penalty of eight hundred dollars, and the vessel may be detained until such penalty be paid or security given for the payment thereof; and unless payment be made or satisfactory security be given within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty.

**25.** The master of every vessel coming from any port or place out of the Dominion of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the Collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers (if any), the number of the crew, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods (if any) have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo (if any) is intended to be exported in the same vessel, and what surplus stores remain on board, as far as any of such particulars can be known to him.

**26.** In the case of every vessel bound for any sea-port in Canada, from any port out of Canada, the Collector or proper officer of such Canadian port may cause such vessel to be boarded by an officer of Customs detailed by him for such service, at any place within three marine miles of the anchorage ground, and such officer may demand from the master or purser of such vessel a correct copy of the report inwards intended by him to be presented at the Custom House on arrival. Such boarding officer may remain on board the vessel until she anchors, and the copy of the report so received by him shall be deposited by him at the Custom House as the vessel's report inwards, for comparison with that to be presented by the master in person.

**27.** The master or person in charge of any vessel, whether laden or in ballast, arriving by inland navigation in any port or place of entry in Canada, from any place beyond the limits of Canada, and having any goods therein (whether any duty be payable on such goods or not) shall go without delay, when such vessel is anchored or moored, directly to the Custom House for such port or place of entry, and

dollars, with  
Port of Entry

make a report in writing (in such form as may be appointed for that purpose by competent authority) to the Collector or other proper officer, of the arrival of such vessel, stating in such report the marks and numbers of every package and parcel of goods in such vessel, or in the charge and custody of such person, from what place the same are respectively brought, and to what place and to whom consigned or belonging, as far as such particulars are known to him ; and he shall then and there produce such goods to the Collector or other proper officer, and shall declare that no goods have been unladen from such vessel or have been put out of his possession, between the time of his coming within the limits of Canada and of his making his report and affidavit, and shall further answer all such questions concerning such vessel or goods as are demanded of him by such Collector or officer.

28. The master shall at the time of making his report, if required by the officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report and declaring that all the statements made in the report are true ; and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report.

29. If any goods are unladen from any vessel before such report be made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall forfeit the sum of four hundred dollars, and the vessel may be detained until the said fine be paid.

30. Any goods not reported, found on board of any vessel or landed, shall be seized and forfeited, unless it appears that there was no fraudulent intention, in which case the master shall be allowed to amend his report ; but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk.

31. If the contents of any package intended for importation into another port, or for exportation, be unknown to the master, the officer may open and examine it, and cause it for that purpose to be landed if he sees fit ; and if any prohibited goods be found therein, all the goods in such package shall be seized and forfeited.

32. In order to avoid injurious delay to steamers and other vessels under certain circumstances, the Governor in Council may make such regulations as may be considered advisable, for the appointment of sufferance wharves and warehouses, at which, goods arriving by vessels in transit to other ports or confined to certain days of de-

parture, may be landed and afterward stored before entry—such vessels being duly reported to the Custom House, and having obtained the Collector's warrant for the purpose; provided such landing be effected between sunrise and sunset, on a day not being Sunday or a statutory holiday; and provided the goods on being so landed, are immediately stored in some such approved sufferance warehouse; and such goods shall be thereafter dealt with by the Customs as prescribed by law; but nothing in this section shall affect any contract, express, or implied, between the master or owner of any such vessel and the owner, shipper or consignee of any such goods as aforesaid, or the rights or liability of any party under such contract; and provided further, that the Governor in Council may make similar regulations for the appointment of sufferance warehouses, in which goods arriving by railway may be stored before entry, such goods having been duly reported to the Collector or proper officer of Customs.

35. Fresh fish, coin or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel; provided they be duly reported and entered as soon as possible after being safely deposited on shore, and that the landing be in presence of an officer of the Customs or Receiver of Wreck, or other person authorized to do the acts of such Receiver under "*The Wreck and Salvage Act, 1873*," or any Act amending the same.

36. If a vessel having live stock or perishable articles on board arrives after business hours, the Collector or any officer at the port may permit the master to unlade the same before report; but report shall in such case be made as soon as may be after the next opening of the Customs office.

37. The Governor in Council may, by regulation, declare any trade or voyage on the seas, rivers, lakes or waters, within or adjacent to Canada, whether to or from any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this Act, whether such seas, rivers, lakes or waters are or are not, geographically or for the purposes of other Acts or laws, inland waters; and all carrying by water which is not a carrying by sea or coastwise, shall be deemed to be a carrying by inland navigation; and the Governor in Council may, from time to time, with regard to any such coasting trade, dispense with such of the requirements of this Act as he deems it inexpedient to enforce in any case or class of cases, or make such further regulations as he may think expedient; and any goods carried coastwise, or laden, water-borne or unladen, contrary to such regulations or to any provision of this Act, not dispensed with by such regulations, shall be seized and forfeited.

38. It shall not be lawful, unless otherwise authorized by the

Governor in Council, to import any goods, wares or merchandise from any port or place out of Canada in any vessel which has not been duly registered and has not a certificate of such registry on board.

39. If any goods are unladen from any vessel or vehicle, or put out of the custody of the master or person in charge of the same, before report is made as required by this Act, or if such person or master fails to make such report, or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each such offence forfeit the sum of four hundred dollars : and if any such goods are not so reported and produced, or if the marks and numbers or other description of any package do not agree with the report made, such goods or package shall be seized and forfeited, and the vessel or vehicle and the animals drawing the same shall be detained until such amount be paid.

40. Every importer of any goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same ; and every importer of any goods imported by inland navigation in a decked vessel of one hundred tons burthen or more, shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same : and every importer of any goods imported by inland navigation in any undecked vessel, or in any vessel less than one hundred tons burthen, or by land, shall, forthwith, after the importation of such goods, produce the same to the proper officer and make due entry thereof.

58. When any vessel is entered at the Custom House at any port in Canada, on board of which there are any goods on which any duty has been levied or collected or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel, then, on proof being made on the oath of one or more credible witness or witnesses, before and to the satisfaction of the Collector or proper officer of the Customs at the place (who shall administer the oath), that such goods, or any part thereof (specifying the same) have been so lost or destroyed before the landing of the same, the duties on the whole or the part thereof so proved to be lost or destroyed, shall, if the same have been paid or deposited, be returned to the owner or his agent.

59. If any vessel having received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the Collector, upon application of the master or agent, may permit such goods to

be unladen and deposited in a warehouse in the custody of the Collector; and the Collector shall cause to be taken an exact account of the packages and contents; and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the Collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unloading and storing, the Collector shall deliver up the same to the master or agent to be exported or carried coastwise as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty. No person shall be entitled to the benefit of this section who shall have sold any of such goods, except such as it may have been necessary to sell to defray the expense of repairs and charges of the vessel, or as may have been authorized by the Collector of Customs; and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser.

60. Goods derelict, flotsam, jetsam or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada, shall be subject to the same duties and regulations as goods of the like kind imported are subject to.

61. If any person has in his possession, in port or on land, any goods, derelict, flotsam, jetsam or wreck, the same being dutiable, and does not give notice thereof to the nearest officer of Customs without unnecessary delay, or does not, on demand, pay the duties thereon or deliver the same to the proper officer, he shall forfeit two hundred dollars, in addition to all other liabilities and penalties incurred by him, and the goods shall be seized and forfeited; and if any person removes or alters in quantity or quality, any such goods, or unnecessarily opens or alters any package thereof, or abets any such act, before the goods are deposited in a warehouse under the custody of the Customs officer, he shall, in addition to all other liabilities and penalties incurred by him, forfeit two hundred dollars.

140. Warehoused goods may be delivered as ships' stores for any vessel of the burden of fifty tons or upwards, bound on a voyage to a port out of Canada, the probable duration of which voyage out and home will not be less than thirty days,—also for any vessel bound for and engaged in the deep sea fishing, proof being first made by affidavit of the master or owner, to the satisfaction of the proper officer, that the stores are necessary and intended for the purposes aforesaid: Provided, that the Minister of Customs may define and limit the kind, quantity and class of goods which may be so delivered as ships' stores. Should such stores or any part thereof be relanded, sold or disposed of in Canada without due entry and payment of duty, such stores shall be seized and forfeited and the



vessel for which the same were delivered from warehouse shall be seized and forfeited.

**141.** The master of every vessel bound outwards from any port in Canada to any port or place out of Canada, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the Collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners, and the number of the crew; and before any goods or ballast are taken on board such vessel the master shall show that all goods imported in her, except such as were reported for exportation in the same vessel, have been duly entered, except that the proper officer may issue a stiffening order that such goods or ballast as may be specified therein may be laden before the former cargo is discharged. And before such vessel departs, the master shall bring and deliver to the Collector or other proper officer, a content in writing under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him.

**142.** The master of every vessel, whether in ballast or laden, shall, before departure, come before the Collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer, and, if required, shall make his answers or any of them part of the declaration made under his hand, as aforesaid; and thereupon the Collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage with merchandise, or a certificate of her clearance in ballast, as the case may be; and if there be merchandise on board, and the vessel is bound to any port in Canada, such clearance shall state whether any and which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the Collector at the next port in Canada at which he arrives, immediately on his arrival.

**143.** If any vessel departs from any port or place in Canada, without a clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, or if, having received a clearance, such vessel adds to her cargo, or takes another vessel in tow, or performs any work without having mentioned in the report outwards the intention so to do, the master shall forfeit the sum of four hundred dollars; and the vessel shall be detained in any port in Canada until the said penalty be paid.

**144.** The Governor in Council may, by regulation, dispense with any of the requirements of the two last preceding sections which he deems it inexpedient to enforce, with regard to vessels engaged in the coasting trade or inland navigation.

**145.** Before a clearance is granted to any vessel bound to a port or place out of Canada, the owners, shippers or consignors of the cargo on board such vessel shall deliver to the Collector or proper officer of Customs, entries of such parts of the cargo as are shipped by them respectively, and shall verify the same by oath; and such entries shall specify the kinds and quantities of the articles shipped by them respectively, and the value of the total quantity of each kind of articles, and whether the said goods are of Canadian or of foreign production or manufacture; and such oath shall state that such entry contains a full, just and true account of all articles laden on board of such vessel by such owners, shippers, or consignors respectively; and that the values of such articles are truly stated according to their actual cost, or the value which they truly bear at the port and time of exportation; and in case the goods so shipped or any part thereof be liable by law to any export duty, the amount of such duty shall be stated in such entry; and no such entry shall be valid, and no clearance shall be granted to such vessel until such duty is paid to the Collector or proper officer of Customs.

**151.** The report for entry, inwards and outwards, required by this Act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all respects, and subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report were made by the master;—and the word “master,” for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the Collector or proper officer of Customs from calling upon the master of any steam vessel, to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him, if the report had been made by him, or to exempt the master from the penalties imposed by this Act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he shall see fit so to do.

**152.** Whenever the Collector of Customs at any port is satisfied that in such port as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary, infectious, contagious or epidemic disease, which could be transmitted by the vessel, her crew, or cargo, he may grant to any vessel requiring a bill of health, a certificate, under his hand and seal, attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar.

**153.** If any person, with intent to defraud the revenue of Canada,

smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out or passes or attempts to pass through the Custom House any false, forged or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors shall, in addition to any other penalty or forfeiture to which he and they may be subject for such offence, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty of not less than fifty dollars and not more than two hundred dollars, or to imprisonment for a term not less than one month nor more than one year, or to both fine and imprisonment within the said limits, in the discretion of the court before whom the conviction is had.

**154.** If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore, or brought in, by land or otherwise, without payment of duties, then and in such cases all such goods (although not liable to any duties nor prohibited) shall be seized and forfeited, and every person offering the same for sale shall forfeit treble the value of such goods, or the penalty of two hundred dollars, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more Justices of the peace; and in default of payment on conviction, the party so offending shall be committed to any of Her Majesty's gaols for a period not exceeding sixty days.

**155.** If any person knowingly harbors, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada, (whether such goods are dutiable or not), or whereon the duties lawfully payable have not been paid, such person shall, for such offence, forfeit treble the value of the said goods, as well as the goods themselves.

**156.** If any two or more persons in company are found together, and they or any of them have any goods liable to forfeiture under this Act, every such person having knowledge of the fact, shall be guilty of a misdemeanor, and punishable accordingly.

**162.** All vessels with the guns, tackle, apparel and furniture thereof, vehicles, harness, tackle, horses and cattle made use of in the importation or unshipping or landing or removal of any goods liable to forfeiture under this Act, shall be seized and forfeited; and every person assisting or otherwise concerned in importing, unshipping, landing or removal, or in the harboring of such goods, or into whose hands or possession the same knowingly come, shall forfeit treble the value of such goods, or the penalty of two hundred dollars at the election of the party suing for the same; and the averment in any information or libel exhibited for the recovery of such penalty, that such party has elected to sue for the sum mentioned in the infor-

mation or libel, shall be sufficient proof of such election, without any other evidence of the fact.

**163.** If any vessel is found hovering (in British waters) within one league of the coasts or shores of Canada, any officer of Customs may go on board and enter into such vessel, and stay on board such vessel, while she remains within the limits of Canada or within one league thereof; and if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of Customs, such officer may bring the vessel into port, and examine her cargo, and if any goods prohibited to be imported into Canada are on board, then such vessel with her apparel, rigging, tackle, furniture, stores and cargo, shall be seized and forfeited; and if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship or vessel or her cargo, he shall forfeit and pay the sum of four hundred dollars.

**164.** Every person proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto, or conveying or having conveyed anything subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard or destroyed, or in which any goods shall have been unlawfully brought into Canada, shall forfeit one hundred dollars, provided such person shall have been knowingly concerned in such acts.

**165.** Officers of Customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen shall have been delivered; they shall have free access to every part of the vessel, with power to fasten down hatchways, the fore-castle excepted, and to mark and secure any goods on board; and if any place, box or chest be locked, and the keys withheld, the officer may open the same. If any goods be found concealed on board they shall be seized and forfeited, and if any mark, lock or seal upon any goods on board, be wilfully altered, opened or broken, before the delivery of the goods, or if any goods be secretly conveyed away, or if hatchways fastened down by the officer be opened by the master, or with his assent, the master shall forfeit four hundred dollars, and the vessel may be detained until the said fine be paid, or satisfactory security be given for the payment thereof.

**166.** The Collector or other proper officer of the Customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food, under a penalty of two hundred dollars.

**234.** The Governor in Council may grant yearly Coasting Licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a Coasting License, shall, on entering any port in the Dominion with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is more than fifty tons burthen, to the Collector on each entry, and a like fee of fifty cents, or one dollar, (according to the burthen of the vessel) on each clearance of such vessel at any port; and such fees shall be payable accordingly before such vessel shall be entered or cleared: Provided that the Governor in Council may reduce or readjust such fees, but may not increase them; and provided also, that vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees.

**235.** All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any regulation made by the Governor in Council, and all goods or vehicles and all vessels under the value of four hundred dollars, with regard to which the requirements of any such regulations have not been complied with, shall be seized and forfeited, and if such vessel be of or over the value of four hundred dollars, the master thereof shall, by such non-compliance, incur a penalty of four hundred dollars, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof; and any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same court and tribunal, as if incurred by the contravention of any direct provision of this Act.

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## COASTING REGULATIONS.

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ON the recommendation of the Honorable the Minister of Customs, and under the provisions of the 13th and 125th Sections of the Act passed in the session of the Parliament of Canada held in the 40th year of Her Majesty's reign, chaptered 10 and intituled "An Act to amend and consolidate the Acts respecting the Customs,"—

His Excellency, by and with the advice of the Queen's Privy Council for Canada, has been pleased to order, and it is hereby ordered, that the following Regulations respecting the Coasting Trade of the Dominion of Canada be and the same is hereby adopted and established;

*Coasting Regulations.*

1. Vessels and boats employed in the transport of goods or passengers from one port or place to another port or place within the limits of the Dominion of Canada, shall be deemed to be engaged in the Coasting Trade and shall be subject to the regulations governing the same.

2. None but British registered vessels and boats wholly owned by British subjects and such other vessels or boats as may be owned by the subjects of countries included in any treaty with Great Britain by which the Coasting Trade is mutually conceded, can lawfully be engaged in the Coasting Trade of the Dominion of Canada, and the names of such vessels or boats and the names of their Port of Registry shall be distinctly painted on the stern of the said vessels or boats.

3. Such vessels and boats may, without being subject to entry or clearance, as required by law, for vessels trading between ports in the Dominion of Canada, as well as with foreign ports, carry goods the produce of Canada, or goods duty free, or goods duty paid, or passengers from any ports or places in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island to any other ports or places in the said several Provinces, provided always that the owners or masters of such vessels or boats shall take out a license for the year or part of the year always terminable on the 30th day of June, for that purpose, from a Collector of Customs in Canada, and that the owners or masters in taking out the said license shall enter into bonds of \$500.00 conditioned that such vessels or boats shall not be employed in the foreign trade, unless as hereinafter provided, and provided also that the master of every such vessel or boat shall report inwards and outwards on entering or leaving a port, on the forms hereinafter prescribed.

4. The master of any such vessel or boat shall produce his license to any officer of Customs, whenever the same shall be demanded, and answer all questions put to him, and such officer of Customs shall be at liberty to go on board any such coasting vessel when he may deem proper, and if he should find any dutiable goods therein which had not been entered at the Customs, or any prohibited or smuggled goods, or if any goods had been unladen therefrom before the master had reported to a Customs officer, the goods and vessel shall be forfeited, and the master shall incur the penalty of \$100.00.

5. Before any coasting vessel or boat shall depart from any port or lading in any one of the Provinces of the Dominion of Canada for any other port in the said Dominion, report with a duplicate thereof, in the form or to the effect of the following, and signed by the master, shall be delivered to the Collector or some officer of Customs who

shall retain the duplicate and return the original report dated and signed by him, and such report shall be the clearance of the vessel or boat for the voyage, except for goods under bond, or goods liable to Excise or Internal Revenue duty which shall require the entries and warrants for landing to be signed by the proper officers as required by law, and if any report be false, the master who signed it shall forfeit the sum of \$100.00.

*Report Inwards*

Coastwise for a registered coasting vessel or boat arriving at one port from another in the Dominion of Canada.

Port of	Registered Tonnage,	tons.
Name of vessel,	Where from,	
Master's name,		
Port of Registry,		

I, the undersigned, master of the above described vessel, do solemnly declare that I have not touched at any foreign port, nor have I taken on board, nor landed nor put off said vessel any goods liable to Customs duty or other revenue impost since leaving the above named port of departure.

day of , 188 , Master.

Collector of Customs.

*Report Outwards*

Coastwise for a registered coasting vessel or boat proceeding from one port to another in the Dominion of Canada.

Port of	Port of Registry,	
Name of vessel,	Registered Tonnage,	tons.
Master's name,	Whither bound,	

I, the undersigned, master of the above named vessel, do solemnly swear that I am bound for, and will proceed directly to, the Port of

and that I will not, during said voyage, touch at any foreign port, nor take on board, nor land, nor put off of said vessel any goods liable to Customs duty, or other revenue impost, before arriving at the above named port of destination.

day of \_\_\_\_\_, 188 \_\_\_\_\_, Master.

Collector of Customs.

6. Vessels and boats employed in the coasting trade that shall not have taken up a license for carrying goods, shall report inwards and outwards at the nearest port to their place of arrival or destination, and require clearances whenever they depart from any port or place within the Dominion of Canada, and in default of their so reporting the vessel and cargo, the master shall in such cases be subject to the penalty of \$100 for departing and arriving without due entry inwards or outwards, as the case may be. Provided that when a vessel shall sail from any place where there is no Custom House or officer of Customs, it shall be sufficient for the carrying out of this regulation that the owner or master of such vessel do, as soon afterwards as possible forward to the nearest Custom House a similar report in duplicate, or lodge the same at the first port at which he shall touch where there is a Custom House Officer.

7. Goods under a removal bond from one Canadian port to another Canadian port may be carried in any British registered vessel or boat trading coastwise with a proper license upon such goods being properly entered in the report outwards and clearance in duplicate, the Collector at the port from which such goods are removed being required to forward by mail, to the Collector of the port for which the goods are destined all the particulars and description of the goods so forwarded, and the packages shall be properly marked in red as now provided, but no goods under bond shall be carried in any coasting vessel or without being so reported and cleared.

8. No coasting vessel or boat shall touch at any foreign port unless forced by unavoidable circumstances, or thereunto authorized by a Collector or proper officer of Customs, and the master of any coasting vessel or boat which has touched at any foreign port shall declare the same in writing under his own hand to the Collector or proper officer of Customs at the port or place in Canada where his vessel or boat afterwards first arrives, under a penalty of \$100.

9. If any goods are unshipped from any vessel or boat arriving coastwise, or unshipped or water borne to be shipped, to be carried coastwise on Sundays or holidays, or unless in the presence or with the authority of the proper officer of Customs, or unless at such times and places as shall be appointed and approved by him for that purpose; the same shall be forfeited and the master of the vessel or boat shall forfeit the sum of \$100.



10. Officers of Customs may board any coasting vessel or boat in any port or place, and at any period of the voyage search her, and examine all goods on board, and demand all the documents which ought to be on board; and the Collector may require such documents to be brought to him for inspection.

11. No fishing boat or boat used in ferrying under fifteen tons burthen shall, except by special license or permission, carry any goods from a foreign country, which are liable to duty, under pain of seizure, unless the same (in the case of ferry boats) be for the sole use of some passenger then on board.

12. No goods can be carried in any coasting vessel or boat, except such as are laden to be so carried at some port or place in Canada, and no goods shall be taken into or put out of any coasting vessel or boat while on her voyage by river, lake or sea.

13. The reports inwards and outwards coastwise required by these Regulations may, in the case of any steam vessel carrying a Purser, be signed by such Purser, with the like effect in all respects, and subject to the like penalty on the Purser, and the like forfeiture of the goods, in case of any untrue statement, or violation of Customs law, as if the report was signed by the master; and the word master, for the purposes of these regulations, shall be construed as including the Purser of any steam vessel; but nothing herein contained shall preclude the Collector or proper officer of Customs from calling upon the master of any steam vessel to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him if the report had been made by him, or to exempt the master from the penalties imposed by these regulations for failure to answer any such question or for answering untruly or to prevent the master from making such report, if he shall see fit so to do.

14. The foregoing regulations are also to govern the Coasting Trade of the Province of British Columbia so far only as relates to vessels trading or making voyages between the several ports in that Province.

15. The Coasting Regulations dated the 28th July, 1868 and 31st May, 1870, and all regulations heretofore existing in the Dominion of Canada in reference to Coasting in any of the said Provinces, are hereby repealed.

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#### PRIVY COUNCIL.

Ottawa, 17th April, 1883.

I hereby certify that the foregoing Regulations respecting the Coasting Trade of the Dominion of Canada have been this day approved by His Excellency the Governor General in Council.

JOHN J. McGEE,  
Clerk, Privy Council.

## CARRIAGE OF DANGEROUS GOODS.

## 36 VICTORIA.

## CHAP. 8.

An Act with respect to the Carriage of Dangerous Goods in Ships.

[Assented to 3rd May, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited for all purposes as "The Carriage of Dangerous Goods Act, 1873."

2. This Act shall come into operation upon, from and after the day, not being earlier than the first day of January, one thousand eight hundred and seventy-four, appointed for that purpose in any proclamation by the Governor, to the effect that the same has been confirmed and approved by Her Majesty in Council, which day is hereinafter referred to as the commencement of this Act.

3. Upon, from and after the commencement of this Act, section three hundred and twenty-nine of Act of Parliament of the United Kingdom, passed in the Session thereof, held in the seventeenth and eighteenth year of Her Majesty's reign, chapter one hundred and four, "to amend and consolidate the Acts relating to Merchant Shipping," known as "*The Merchant Shipping Act, 1854*," shall be, and the same is hereby repealed, in so far as the same relates to ships registered in Canada.

4. In this Act, the word "ship" means only vessels used in navigation (not propelled exclusively by oars), registered in Canada:

The term "ships belonging to Her Majesty," includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada, by the one hundred and eighth section of "*The British North America Act, 1867*:"

The word "Master" includes every person having command or charge of any ship.

5. This Act shall not apply to ships belonging to Her Majesty.

6. If any person sends, or attempts to send by, or not being the Master or owner of the ship, carries or attempts to carry in any ship, from any port or place in Canada, any dangerous goods, that is to say, aquafortis, oil of vitrol, gun-powder, nitro-glycerine, naphtha, benzine, lucifer-matches or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods, and of the name and address of the sender thereof, to the master or owner of the ship, at or before the time of sending the same to be shipped, or taking the same on board the ship, he shall for every such offence incur a penalty not exceeding five hundred dollars: Provided that if such person show that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware, and did not suspect, and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed forty dollars.

7. Any person who knowingly sends, or attempts to send by, or carries or attempts to carry in any ship, from any port or place in Canada, any dangerous goods, or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, shall incur a penalty not exceeding two thousand dollars.

8. The master or owner of any ship may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.

9. Where any dangerous goods, as defined in the sixth section of this Act, or any goods which, in the judgment of the master or owner, are of a dangerous nature, have been on board any ship, within the limits of the Dominion of Canada, without being marked, as aforesaid, or without such notice having been given, as aforesaid, the master or owner of such ship may cause such goods to be thrown overboard: and neither the master nor the owner of the ship shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any Court in Canada.

10. Where any dangerous goods have been sent or attempted to be sent, or carried or attempted to be carried, on board any ship, from any port or place in Canada, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such goods have been sent or attempted to be sent under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court of record of superior jurisdiction, on application by or on behalf of the owner, charterer or master of the ship, to declare such goods to be, and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

Brought into force from April 4th, 1874, by Proclamation, dated March 26th, 1874.

## SUNDAY OBSERVANCE ACT.

## CHAPTER 41 OF 48 VICTORIA, ONTARIO.

An Act to provide for the Better Observance of the Lord's Day, commonly called Sunday, by prohibiting Sunday Excursions of certain kinds.

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sunday excursions by steamboats plying for hire, or by railway, or in part by any such steamboat and in part by railway, and having for their only, or principal object, the carriage of Sunday passengers for amusement or pleasure only, and to go and return on the same day by the same steamboat or railway, or any other, owned by the same persons or company, shall be unlawful, and shall not be deemed a lawful conveying of travellers within the meaning of any statute of Ontario permitting the conveyance of travellers on the Lord's day.

2. The owner or owners of any steamboat or railway by which any such Sunday excursion is wholly or partly made, shall, for each offence against this Act, forfeit and pay the sum of four hundred dollars, to be recovered by action before any court having jurisdiction in civil cases to that amount by any person suing for the same under this Act, and for the purposes thereof.

3. The action for the recovering of any penalty incurred under this Act must be brought before a court having competent jurisdiction, as aforesaid, in the place from which the steamboat or train employed in the unlawful excursion, on which the action is founded, started, or through, or at which it passed or stopped in the course thereof, and must be brought within six months after the commission of the alleged offence; and notice in writing of such action, and the cause thereof, must be given to the defendant at least one month before the commencement of the action.

4. All sums of money recovered by action under the foregoing provisions of this Act shall be appropriated as follows: One moiety thereof to the plaintiff in the action, and the other moiety to the municipality of the city, town, village or place from which the unlawful excursion started, to be applied for the purposes of such municipality.

5. The expression "owner or owners" in this Act includes any corporation owning the steamboat or railway referred to, and the expression, "person or persons," includes corporations.

6. This Act shall not apply to ferries or to steamboats when employed thereon.

7. The captain or other person in charge of any steamboat, and the conductor or other person in charge of any train, used for the purpose of any such Sunday excursion shall be liable to the like penalties as are prescribed by the Revised Statute, chapter 189, entitled *An Act to Prevent the Profanation of the Lord's Day*, for the violation of that Act; and the said penalties shall be recoverable, and applied in like manner as the penalties in the said Act mentioned.

## MASTERS AND MATES' CERTIFICATES.

### 46 VICTORIA.

#### CHAP. 28.

An Act respecting certificates to Masters and Mates of Inland and Coasting Ships.

[Assented to 25th May, 1883.]

**W**HEREAS it is expedient to provide for the examination of, and grant of certificates of competency or service to persons intending to act as Masters or Mates on board Ships registered in Canada, trading on the inland waters of Canada, or on the coasts of Canada, or in its vicinity, as hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. In this Act the word "ship" means any vessel used for the purposes of navigation and registered in Canada; the expression "sailing ship" means a ship propelled mainly by sails; the word "steamship" or "steamer" includes any ship impelled wholly or in part by steam

or other motive power than sails or oars; the word "mate" means the first or only mate; the word "voyage" includes "passage" or "trip"; and the expression "coasting voyage" includes a voyage between Canada and Newfoundland or the United States of America.

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

2. Examinations may be instituted in Canada, for persons having been domiciled in Canada for at least three years who intend to become masters or mates of ships trading on the inland waters of Canada, or on coasting voyages, as heretofore mentioned, or who wish to procure certificates of competency or service as masters or mates of such ships; and persons serving in ships so registered, and British subjects serving in foreign vessels in like trade, shall be deemed to be domiciled in Canada while so serving: And, subject as herein mentioned, the Minister of Marine and Fisheries shall provide for such examinations at such place or places as he may see fit; and the Governor may appoint an examiner or examiners at any place or places to conduct the examination, and may, by Order in Council, regulate the same, and determine the amount of the remuneration of such examiners.

3. The Governor in Council may, from time to time, make rules for the conduct of such examinations, and as to the qualifications of the applicants; and such rules shall be observed by all examiners.

4. All applicants for examination shall pay, previous to examination, to such person as the Minister of Marine and Fisheries may appoint for that purpose, the following mentioned fees; that is to say, for a certificate of competency as master, eight dollars, and for a certificate of competency as mate, four dollars, and for certificates of service, the fees hereinafter provided; and in the event of any applicant failing to procure his certificate of qualification on his first examination, he shall be entitled to a second examination without payment of any additional fee; but if he fails to procure his certificate of qualification on such second examination, he shall pay the same fee previous to any subsequent examination as is hereby required to be paid previous to a first examination for the certificate he seeks to procure.

5. Subject to the proviso hereinafter made, the Minister of Marine and Fisheries may grant to every applicant who is duly reported by any one or more of the examiners to have passed the examination satisfactorily, for sailing ships or steamers, as the case may be, and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate (hereinafter called a certificate of competency) to the effect that he is competent to act as master or mate of ships hereby required to be commanded by a certificated master, or to have a certificated mate (stating the class of ships for which he is found competent) trading on the inland waters of Canada, or in the coasting trade, as the case may be; but in

every case in which the Minister of Marine and Fisheries has reason to believe such report to have been unduly made, he may remit the case either to the same or to any other examiner or examiners, and may require a re-examination of the applicant, or a further enquiry into his testimonials and character, before granting him a certificate.

6. Certificates of service of ships trading on the inland waters of Canada or on coasting voyages, differing in form from certificates of competency, may be granted as follows :

(1.) Every person who, before the first day of January, A. D. 1883, served as master in a ship trading on the inland waters of Canada, or coasting voyages, or being a British subject served in foreign vessels in like trade, and who has produced satisfactory evidence at such examination of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as master for ships trading on the inland waters of Canada, or on coasting voyages, on payment of a fee of four dollars.

(2.) Every person who, before the first day of January, A. D. 1883, served as mate in a ship trading on the inland waters of Canada, or on coasting voyages, or being a British subject, served in foreign vessels in like trade, and who has produced satisfactory evidence in manner aforesaid of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as first, or only mate, for ships trading on the inland waters of Canada, or upon coasting voyages, on payment of a fee of two dollars.

7. After the first day of January, which will be in the year of Our Lord, one thousand eight hundred and eighty-four, no sailing ship registered in Canada over one hundred tons register tonnage, nor any steamship so registered, shall go from any port or place in Canada on a voyage to any other port or place in Canada, or Newfoundland, or in the United States of America, or be licensed or allowed to ply on any Canadian water, unless the master thereof has obtained and possesses a valid certificate of competency or service as master for inland, or (as the case may be) coasting ships of the class and description to which such ship belongs, from the Minister of Marine and Fisheries, or a valid certificate of competency or services as master for sea-going ships, from the said Minister, or a valid certificate of competency as master, for foreign-going ships, from the Board of Trade in the United Kingdom, or a valid certificate of competency as master, granted in any British possession and declared by order of Her Majesty in Council published in the *London Gazette*, under the provisions of the Merchant Shipping Colonial Act, 1869, or of any Act of the Parliament of the United Kingdom, containing such provisions, to be of the same force as a certificate of competency, as master for foreign-going ships granted under the Acts of the Parliament of the United Kingdom, relating to merchant shipping; nor

shall any ship registered in Canada and over two hundred tons register tonnage, nor any steamship so registered and allowed by law to carry more than forty passengers, go from any port or place in Canada on a voyage to any other port or place in Canada or in Newfoundland, or in the United States of America, unless such ship carries also a mate who has obtained a valid certificate of competency or service as such mate, granted by some such authority as aforesaid :

And every person who, having been engaged to serve as master or mate of any ship, the master or mate whereof is hereby required to have such certificate of competency or service, goes on any voyage described in this section after the said date as such master or mate, without being at the time entitled to and possessed of such certificate as hereinbefore required, or who employs any person as master or mate of any such ship as aforesaid, on any such voyage, without first ascertaining that he is at the time entitled to and possessed of such certificate, shall, for each such offence, incur a penalty of one hundred dollars :

Provided that the foregoing provisions as to masters and mates, shall not apply to pleasure yachts not carrying passengers or goods for hire, or to ships employed solely in fishing, or barges or other vessels having neither masts, sails nor rigging, and not being steamships.

8. After the first day of January, which will be in the year of Our Lord, one thousand eight hundred and eighty four, the master of every ship, required by this Act to be commanded by a master having a certificate of competency or service as aforesaid, shall produce to every officer of the customs in Canada, to whom he applies for a clearance or for a *transit* coastwise for such ship, on any voyage from any port or place in Canada, to any other port or place in Canada, Newfoundland or the United States of America, or for a license for the season in respect of such ship, the certificate of competency or service which the said master is hereby required to possess ; and if such ship be also required to carry a mate having such certificate as aforesaid, the master shall, at the same time, produce to such officer of the customs the certificate of such mate :

(2.) No officer of the customs at any port in Canada shall clear any such ship or grant a *transit* coastwise for any such ship on any such voyage as aforesaid, or grant a license for the season in respect of any such ship, after the day last aforesaid, without such certificate being first produced to him ; and if any master of any such ship attempts to sail, or take such ship from any port in Canada, on any such voyage as aforesaid, for which a clearance or a *transit* coastwise or a license for the season is required, after that date,



until the requirements of this section have been fully complied with, such master shall, for every such offence, incur a penalty of one hundred dollars :

(3) And the master of any steam tug, or other steamer required to have a certificated master, but so employed as not to require such clearance, *transire* or license as aforesaid, shall, whenever thereto required by any officer of the Customs produce his certificate as master to such officer, and for any refusal or neglect so to do, shall incur a penalty of one hundred dollars ; and if any such steam tug, or other steamer required by this Act to be commanded by a certificated master, plies on any Canadian water without having such certificated master on board and in charge, the owner thereof shall incur a penalty of one hundred dollars for every day on which such offence is committed.

9. When any master or mate proves to the satisfaction of the Minister of Marine and Fisheries that he has, without fault on his part, lost or been deprived of any certificate theretofore granted to him under this Act, by the Minister of Marine and Fisheries, the Minister may, upon payment of one half the fee charged for the original certificate, cause a copy or duplicate of the original certificate to be made out and certified as aforesaid, and to be delivered to him.

10. Every person who makes, or procures to be made, or assists in making any false representation for the purpose of obtaining for himself or for any other person a certificate of competency or service under this Act, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate, or who fraudulently makes use of any such certificate which is forged, altered, cancelled or suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall, for each such offence, be deemed guilty of a misdemeanor.

11. The Minister of Marine and Fisheries may suspend or cancel the certificate of any master or mate who has received a certificate from such Minister under this Act in the following cases, that is to say : If upon any investigation made or authorized by him, such master or mate is found to be incompetent, or to have been guilty of any act of misconduct, drunkenness, or tyranny, or if it is found that the loss or abandonment of, or serious damage to any ship, or loss of life, has been caused by his wrongful act or default, or if it is shown, to the satisfaction of the said Minister, that such certificate was granted on false or erroneous information.

12. And every master or mate whose certificate is cancelled or suspended shall deliver it to the Minister of Marine and Fisheries, or as

he directs, unless he has already delivered it to any court or tribunal before whom his conduct was called in question in the course of the investigation upon which it is cancelled or suspended, and in default shall, for each offence, incur a penalty not exceeding one hundred dollars; and the Minister of Marine and Fisheries may, at any subsequent time, grant to any person whose certificate has been cancelled, a new certificate of the same or of any lower grade.

13. A record of all certificates of competency or service, granted under this Act, shall be kept in a bound book in the Department of Marine and Fisheries; and all documents purporting to be certificates granted by the Minister of Marine and Fisheries in pursuance of this Act, and to be signed by him, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary be shown; and whenever notice of the cancelling, suspending, altering or otherwise affecting by competent authority, any such certificate, is received by the Department, there shall thereupon be made a corresponding entry in the record of certificates; and a copy of any such certificate purporting to be certified by the Minister of Marine and Fisheries or his Deputy, shall be *prima facie* evidence as aforesaid of such certificate; and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any such certificate shall be *prima facie* evidence of the entry and truth of the matter stated therein.

14. All fees received under this Act shall be paid over to the Receiver General, and form part of the Consolidated Revenue Fund of Canada.

15. The Minister of Marine and Fisheries shall cause a copy of this Act to be lodged in all the principal custom houses in the Dominion, naming the various ports where boards of examiners have been appointed, together with a copy of the rules made by the Governor in Council for the guidance of such examiners within sixty days after the passing of this Act.

16. Nothing contained in this Act shall be construed to affect the provisions of the Act passed in the thirty-third year of Her Majesty's reign, chapter seventeen, intitled "*An Act respecting certificates to Masters and Mates of Ships*," or to make a certificate under this Act sufficient for the master or mate of any sea-going ship to which the said Act applies, on any voyage by sea to which the said Act extends.

#### RULES AND REGULATIONS

For governing the Examination of Candidates for Certificates of Competency or Service as Masters and Mates under the provisions of the Act 46 Vic., Chap. 28, intitled "*An Act respecting Certificates to Masters and Mates of Inland and Coasting Vessels*."

Qualifications for Certificates of Competency for Masters and Mates employed in navigating the inland waters of Canada, or engaged in the coasting trade between Quebec and any of the lower ports ; or in the coasting trade between Canada and Newfoundland, or between Canada and a port in the United States of America.

*Competency.*

*Coasting trade from one port in Canada to another port in Canada, or to a port in the United States of America or Newfoundland.*

1. *All Candidates* must pass the examination in colours.
2. *A Mate* must be 19 years of age, and have served at least two years at sea.
3. *In Navigation*.—He must write legibly, and be able to find his latitude by a meridian altitude of the sun ; must be able to take a bearing by the compass, and determine his position by cross-bearings on the chart, and to shape a course and determine the distance run from any given departure.
4. *In Seamanship*.—He must possess a thorough knowledge of the "Rules of the Road," as regards both steamers and sailing vessels, their regulation lights, fog and sound signals ; he must know the signals to be made if in distress ; he must understand both the lead and the log, knotting and splicing rigging, and stowing a cargo. He will be examined in seamanship generally, either for "square rig," "fore and aft" or "steamer," as the case may be. If in the latter he must have a knowledge of the fittings for fire purposes, the bulk-head sluices, if any, and the engine room telegraph, the securing and lowering of the life boats and life rafts. The examiner will ask any other questions he may think fit relating to the duties of a mate.
5. *A Master* must be 21 years of age, and have been at sea at least three years, one of which he must have been as mate.
6. *In Navigation*.—In addition to the qualifications for a mate, he will have to explain how he would shape a course to counteract the effect of a given current, and find the distance made good towards a given point in a certain time.
7. *In Seamanship*.—In addition to the qualifications for a mate, he must know the principal lights upon the coast, and be well acquainted with the tides and soundings. He will be required to explain how he would lay out an anchor in case of stranding, and be able to rig a temporary rudder should the stern apparatus become disabled. He will be questioned as to his knowledge of Protests, Invoices, Charter Party, Bottomry Bonds, and Bills of Lading. The examiner will ask him any further questions he may think fit relating to the duties of a master.

*For the great inland lakes, or minor inland waters of Canada.*

8. This certificate shall be valid for the inland lakes and rivers of Canada, including such great waters as Lake Huron and the Georgian Bay, Lake Superior, Lake Erie and Lake Ontario.

9. All candidates must pass the examination in colours.

10. *A Mate* must be 19 years of age, and have served at least two years at sea, or on the inland waters.

11. *In Navigation*.—He must write legibly, and be able to take a bearing by compass, and determine his position by cross-bearing on the chart. He must be able to shape a course, and determine the distance run from any given departure.

12. *In Seamanship*.—He must possess a thorough knowledge of the "Rule of the Road" as regards both steamers and sailing vessels, their regulation lights, fog and sound signals; he must know the signals to be made if in distress, he must understand both the lead and the log, knotting and splicing rigging, and stowing a cargo. He will be examined in seamanship generally, either for "square rig," "fore and aft" or "steamer," as the case may be. If the latter, he must have a knowledge of the fittings for fire purposes, the bulk-head sluices, if any, and the engine room telegraph, the securing and lowering of life boats and rafts. The examiner will ask any other questions he may think fit relating to the duties of a mate.

13. *A Master* must be 21 years of age, and must have been at sea or on the inland waters at least three years, one of which he must have been as mate.

14. *In Navigation*.—In addition to the qualifications for a mate, he will have to explain how he would shape a course to counteract the effect of a given current, and find the distance made good towards a given point in a certain time.

15. *In Seamanship*.—In addition to the qualifications for a mate, he must know the principal lights upon the great inland waters; he will be required to explain how he would lay out an anchor in case of stranding, and be able to rig a temporary rudder should the stern apparatus become disabled. He will be questioned as to his knowledge of Protests, Invoices, Charter party and Bills of Lading. The examiner will ask him any further questions he may think fit relating to the duties of a master.

*For the minor lakes and rivers of Canada, such as Lake Simcoe, Lake Memphremagog, the River St. Lawrence above Quebec, the Ottawa River, the River St. John and adjacent lakes, or any river or lake in British Columbia, or in Manitoba or the Northwest Territories, or in the District of Keewatin.*

16. *A Mate* must be 19 years of age, and have been at least two years afloat.

17. All candidates must pass in colors.

18. *In Navigation*.—He must be able to shape a course upon the chart, and find his position by cross-bearings of two well known objects; he must be able to measure distances upon the chart, and be able to keep the run of the vessel.

19. *In Seamanship*.—He must understand how to use the lead. He must possess a thorough knowledge of the "Rule of the Road," both for sailing and steam vessels; he must be able to knot and splice, to fit, and rig a "fore and after." He must understand the stowage of cargoes, and the general management of a vessel in bad weather. If examined for a steamboat, he must understand the use of springs on going to or leaving a wharf; he will have to explain the usual modes of extinguishing fire on board ship. He will explain the securing and lowering of life-boats and life-rafts. The Examiner will put any further questions he may think fit, appertaining to the duties of mate.

20. *A Master* must be 21 years of age, and have been at least three years afloat, one of which he must have served as mate.

21. *In Navigation*.—In addition to the qualifications for a mate, he must have a knowledge of the principal lights upon the lakes or rivers he is about to be employed upon; the principal dangers in that locality; the courses and distances to be run to avoid them.

22. *In Seamanship*.—In addition to the qualifications for a mate, he will have to explain how he would lay out an anchor in case of his vessel becoming stranded. He will be examined as to his knowledge of Protests, Invoices, Charter Party and Bills of Lading. The Examiner will ask any further questions he may think fit, relating to the duties of a master in the inland waters.

#### *Service.*

23. A candidate for a Certificate of Service will require to produce satisfactory evidence of sobriety, experience, ability and general good conduct, and furnish the name or names and class of vessels in which he served as master or mate, as the case may be, previous to the 1st January, 1883.

24. All candidates must pass the examination in colors.

#### *Miscellaneous.*

25. Testimonials of character and of sobriety, experience, ability and good conduct on board ship, will be required of all applicants, and without producing them no person will be examined. As such testimonials will have to be closely examined by the Examiners, for veri-

fication before any certificates can be granted, candidates are to lodge them as early as possible. The testimonials of servitude of foreigners and British seamen serving in foreign vessels, must be confirmed either by the Consul of the country to which the ship in which the candidate served belonged, or by some other official authority of that country, or by the testimony of some creditable person on the spot, having personal knowledge of the facts required to be established. Upon application to one of the examiners, candidates will be supplied with a form, which they will be required to fill up and lodge with their testimonials in the hands of the Examiners.

26. Candidates are required to appear at the examination room punctually at the time appointed.

27. Candidates are prohibited from bringing into the examination room books or paper of any kind whatever. The slightest infringement of this regulation will subject the offender to all the penalties of a failure.

28. In the event of any candidate being detected in defacing, blotting, writing in or otherwise injuring any book or books belonging to the Examiners, the papers of such candidate will be detained until the book or books so defaced be replaced by him. He will not, however, be at liberty to remove the damaged book, which will still remain the property of the Examiners.

29. In the event of any candidate being discovered copying from another, or affording any assistance or giving any information to another, or communicating in any way with another during the time of examination, he will subject himself to a failure and its consequences.

30. No candidate will be allowed to work out his problems on a slate or on waste paper.

31. No candidate will be permitted to leave the room until he has given up the paper upon which he is engaged.

32. Candidates will be allowed to work out the various problems by the method and tables they have been accustomed to use, and will be allowed six hours to perform the work. At the expiration of six hours they will, if they have not finished, be declared to have failed, unless the Examiners see fit to lengthen the period in any special case. If, however, the period is lengthened in any special case, the special circumstances of that case and the reasons for lengthening the period must be reported to the Minister of Marine and Fisheries by the Examiners at the time they send in the report.

33. Candidates are expected to bring their answers to all problems within, or not to exceed, a margin of one mile of position from a correct result.

34. From Masters a degree of precision will be required, both in the work and in the results, beyond what is demanded from Mates.

35. In every case where problems are required to be worked out, the examination for Master is to commence with the problems for Mate.

36. In all cases of failure the candidate must be examined *de novo*. If a candidate fails, he will not be re-examined until after a lapse of six months' service afloat on the inland waters or sea coast, as the case may be, to give him time to gain experience.

Examinations may be held at the following ports, viz.: Toronto, Ottawa, Montreal, Quebec, St. John, N. B., Yarmouth, Halifax, Sydney, Charlottetown, Winnipeg, Victoria, Lunenburg, Picton, Port Hope, Kingston, St. Catharines, Sarnia, and Collingwood, for the purpose of examining candidates.

*Note.*

As the examination of Masters and Mates is made compulsory, the qualifications have been kept as low as possible, but it is distinctly to be understood that the Minister of Marine and Fisheries may raise the standard from time to time, if deemed advisable.

## CANADIAN ACT: REGISTRATION OF SHIPS.

### 36 VICTORIA.

#### CHAP. 128.

An Act relating to Shipping and for the registration, inspection, and classification thereof.

*(Reserved for the signification of Her Majesty's pleasure on the 23rd day of May, 1873. Royal assent given by Her Majesty in Council on the 20th day of November, 1873, and Proclamation thereof made by His Excellency the Governor General in the Canada Gazette of the 17th March, 1874. Act to take effect on the 17th March, 1874.)*

**W**HEREAS the rule of measurement of ships contained in the "Act respecting the registration of inland vessels," forming chapter forty-one of the Consolidated Statutes of the late Province

of Canada, being the same as that contained in the Acts of the Imperial Parliament in force on the seventeenth day of March, one thousand eight hundred and forty-five, differs from that contained in the Act of the Imperial Parliament known as "*The Merchant Shipping Act, 1854*," and Acts amending the same; and whereas it is desirable that but one rule of measurement of ships should prevail in Canada, and that ships navigating the inland waters of Canada should not be subject to provisions of law in some other respects different from those to which other ships in Canada are subject; and whereas it is desirable to make better provision for giving security to persons advancing money on ships in course of construction, and to provide for the inspection and classification of ships built or registered in Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## PRELIMINARY.

1. This Act shall take effect upon, from and after the day not being earlier than the first day of January, one thousand eight hundred and seventy-four, named for that purpose in any Proclamation published by the Governor to the effect that the same has been confirmed and approved by Her Majesty in Council.

2. And whereas, by the five hundred and forty-seventh section of "*The Merchant Shipping Act, 1854*," it is enacted and provided that the legislative authority of any British possession shall have power, by any Act or Ordinance confirmed by Her Majesty in Council, to repeal, wholly or in part, any provisions of the said Act relating to ships registered in such possession, so much of the said Act and of any other Act amending the said Act and forming part of the same, as is inconsistent with this Act is hereby repealed, so far as relates to ships registered in Canada.

3. The "Act respecting the registration of inland vessels," forming chapter forty-one, and the "Act for the encouragement of ship building," forming chapter forty-two, of the Consolidated Statutes of the late Province of Canada, and chapters first, second, and third of Title second of Book fourth of the Civil Code of Lower Canada, except so much of Articles 2356, 2359, 2361, 2362, 2373 and 2374 as are not inconsistent with the provisions of this Act, are also hereby repealed. Part the second of chapter seventy-five of the Revised Statutes of Nova Scotia, third series, "of the registration of ships," is also hereby repealed.

4. In this Act.

The term "The Minister," means the Minister of Marine and Fisheries;

The term "ship" includes every description of vessel used in



navigation not propelled by oars ;

The term "ships belonging to Her Majesty," includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada by the one hundred and eighth section of "The British North America Act, 1867 ;"

The term "master," includes every person having command or charge of any ship.

5. Nothing in this Act shall apply to ships belonging to Her Majesty.

6. This Act is divided into four parts :

The first part relating to the measurement and registration of ships ; and unseaworthy ships ;

The second part relating to the licensing of small ships and other vessels ;

The third part relating to security for advances on ships in course of construction ;

The fourth part relating to the inspection and classification of ships.

## PART I.

### MEASUREMENT AND REGISTRATION OF SHIPS.

7. The following ships are exempt from the provision of this part of this Act, viz :

1. Ships having a whole or fixed deck, not propelled wholly or in part by steam, and not exceeding ten tons burthen.

2. Ships not propelled wholly or in part by steam, and not having a whole or fixed deck, whatever their burthen.

8. Except as hereinafter mentioned, no ship propelled either wholly or in part by steam, whatever her tonnage, and no ship not propelled wholly or in part by steam, of more than ten tons burthen, and having a whole or fixed deck, although otherwise entitled by law to be deemed a British ship, shall be recognized in Canada as a British ship, nor be admitted to the privileges of a British ship in Canada, until, nor unless, she be duly registered in the United Kingdom, or in Canada, or some other British possession, under the said Act as amended as aforesaid.

9. In cases where it appears to the Lieutenant-Governor of any Province of Canada, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from any port or place within the Province of which he is Lieutenant-Governor, to any other port or place in Her Majesty's dominions, such Lieutenant-Governor may grant a pass accordingly, and such pass shall, for the

time and within the limits therein mentioned, have the same effect as a pass granted by the Governor, or as a certificate of registry ; and each Lieutenant-Governor shall forward without delay, to the Governor in Council, a copy of each pass granted by him.

10. The Governor in Council may appoint, at and for every port at which he deems it expedient to authorize the registry of ships, the collector or other principal officer of customs, who shall be the Registrar for all the purposes of "The Merchant Shipping Act, 1854," and the Acts amending the same, and of this Act.

11. The Governor in Council may appoint at every such port, and at any other port in Canada, an officer to superintend the survey and admasurement of ships in conformity with the said Acts and this Act ; and the same person may be appointed both the Registrar and Surveyor at any such Registry Port.

12. Such Surveyor shall be entitled to such fees for the measurement of ships about to be registered for the first time under this Act, or requiring measurement for the purposes of registry, and to such travelling expenses, when required to travel for the purpose of making any such measurement, as the Governor in Council may, from time to time by Order in Council, see fit to establish ; and such fees, and travelling expenses (if any) shall be paid to such Surveyor by the persons requiring his services ; and any Surveyor may, in any case, withhold his certificate of measurement, or any other document that may be required of him, until his fees and travelling expenses (if any) be paid, and such fees shall be in lieu of all salary and other remuneration whatever for such services, but no fees shall be charged in Canada for registering vessels or recording transactions relating to the registry of vessels under this Act or under "The Merchant Shipping Act, 1854," or its amendments.

13. In any case where two or more persons claim to be builders or owners of any ship, or present the builder's certificate to the Registrar of Shipping at any port in Canada for the purpose of obtaining registry for such ship under the provisions of section forty, of "The Merchant Shipping Act, 1854," and are not agreed as to who is the builder or owner of the same, such Registrar may refuse to grant registry for such ship, and is hereby empowered to summon witnesses, administer oaths, demand any books or papers, and receive any evidence relating to such ship ; and a copy of such evidence taken, and a report thereon, shall be submitted by him to the Governor in Council, who shall issue such directions in the case as to the giving of security to the other claimant or claimants, or any other matter or thing, as he may deem necessary ; and registry shall be granted in pursuance of such directions and not otherwise.

14. No ship duly registered under the provisions of the said "Act

respecting the registration of inland vessels," forming chapter forty-one of the Consolidated Statutes of the late Province of Canada, before the day on which this Act takes effect, need be registered after that day in pursuance of the provisions of this Act, except for the purpose of enabling her to proceed to sea as a British ship.

But no ship required by the said Act to be registered shall, unless duly registered under the provisions of the said Act, before the said day, and no other ship required to be registered in Canada, under the provisions of "The Merchant Shipping Act, 1854," as amended in aforesaid, or under the provisions of this Act, shall, unless so registered before or after the said day, be recognized in Canada as a British ship; and no officer of customs shall grant clearance to any ship required to be registered under the provisions of either of the said Acts, or of this Act, for the purpose of enabling her to proceed on a voyage unless the master of such ship, upon being required so to do, produces to him the proper certificate of registry; and if any such ship attempts to proceed on a voyage as a British ship without a clearance, any officer of customs may detain such ship until such certificate is produced to him.

15. No new certificate of registry of a ship registered in Canada shall be granted in Canada, under section forty-eight of "The Merchant Shipping Act, 1854," without proof on oath of the certificate of registry of such ship having been lost, mislaid, or destroyed.

16. If any British or foreign registered ship is either actually or constructively wrecked, and the register thereof is closed, and the certificate of registry is delivered up to the proper officer and cancelled; or, if any ship, sailing under a pass from the Governor, or under a pass from a Lieutenant Governor under the ninth section of this Act, is either actually or constructively wrecked on the voyage, and during the time and within the limits mentioned in such pass, the Governor in Council may direct that such ship may be registered as a British ship in any port in Canada at and for which there is a Registrar of Shipping, on proof being adduced, to the satisfaction of the Governor in Council, that such ship has been thoroughly repaired and made seaworthy, and also that all the transactions connected with the wreck, condemnation, and sale of such ship, were in good faith, and that all the requirements of the law have been complied with: but no Registrar of Shipping shall register any such ship without the authority of the Governor in Council.

17. Every person may, upon payment of a fee of twenty cents have access to the register of any ship registered in Canada, at the port of registry of such ship, at any reasonable time during the hours of official attendance of the Registrar, and such fees shall, from time to time as may be directed by the Governor in Council, be paid by

the Registrars receiving the same to the Receiver General, to form part of the Consolidated Revenue Fund of Canada.

18. Subject to the provisions of this Act, collectors or other principal officers of customs in Canada, not being Registrars of Shipping, shall have the same power and be under the same obligation to endorse from time to time on the certificate of registry of any ship at any port in Canada where the said ship may be, any change of master which takes place at that port, as are given to and laid upon Registrars of Shipping under "The Merchant Shipping Act, 1854."

19. For and notwithstanding anything to the contrary contained in the forty-sixth section of "The Merchant Shipping Act, 1854," in case any Registrar of Shipping, or Collector or other principal officer of the customs at any port or place in Canada, receives conflicting directions from owners of any ship registered in Canada as to a change of the master of such ship, such Registrar, or collector or other principal officer, may refuse to endorse a memorandum of the change of master on the certificate of registry of such ship, unless or until he receives a declaration according to the form in the first schedule to this Act, or as near thereto as circumstances permit, from the registered owners respecting a majority of shares in such ship, or from their duly appointed agent or agents, setting forth the name of the person appointed in lieu of the former master, who shall be named in such declaration: the said declaration shall be made and subscribed in the presence of the Registrar or Collector of customs if the declarant or declarants reside within five miles of the custom house or port of registry: but if beyond that distance, in the presence of any Registrar or Collector of customs in Her Majesty's dominions, or of any Justice of the Peace: and in addition to such declaration, the Registrar of Shipping or Collector of Customs at the port where the change is requested to be endorsed, may require to be produced a certified copy of the register, or such other evidence as he may deem necessary, as proof of the ownership of the ship: and in case the ship is at or near such port, he shall, on the demand of a majority of the owners thereof, require the master, or any other person in the possession of the certificate of registry to produce and deliver the same to him: and in default of the same being forthwith produced and delivered up to him, he may detain the ship, and not allow her to proceed to sea until the same has been produced and delivered up to him: and every person having possession of the certificate of registry of a ship registered in Canada, and refusing or neglecting to produce and deliver up the same to any Registrar of Shipping or Collector of Customs requiring the same to be produced and delivered up to him under the provisions of this section, shall incur a penalty of five hundred dollars.

20. Every Registrar of Shipping and every collector of customs

shall keep a record of every endorsement of a change of master made by him on the certificate of registry of a ship, and shall specify in such record the date of such endorsement, the name of the ship, the official number of the ship, the port of registry of the ship, the name of the old master, the name of the new master, and whether or not he has a certificate of competency or a certificate of service, and if he has either of such certificates, the number thereof; and every such record shall be kept in the office of the Registrar of Shipping or Collector of Customs making the same, or his successor as such, and shall at all times during the usual office hours be open to all persons for inspection, without fee or reward.

21. Upon the managing owner, or any of the managing owners (if more than one) of a ship registered in Canada being changed, or, if there be no managing owner, upon the ship's husband being changed, the newly appointed managing owner or owners or ship's husband shall forthwith give notice of such change to the registrar of the ship's port of registry, who shall register the same accordingly; any managing owner or ship's husband who fails to comply with the requirements of this section shall incur a penalty not exceeding one hundred dollars.

22. With respect to the names of ships registered in Canada, the following rules shall be observed:

1. A ship shall not be described by any name other than that by which she is for the time being registered:
2. No change shall be made in the name of a ship without the previous permission of the Governor in Council. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern:
3. If in any case it is shown to the satisfaction of the Governor in Council that the name of any ship has been changed without his previous permission, he may direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly:
4. Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry, (proof of which shall lie on him), shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless with the permission of the Governor in Council.

Every person who acts, or suffers any person under his control

to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do anything required by this section, shall for each offence incur a penalty not exceeding four hundred dollars; and any registrar or principal officer of customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Governor in Council. If of opinion that the application is made on reasonable grounds, the Governor in Council may entertain the same, and may thereupon require notice thereof to be published in such form and manner as he may think fit.

23. Whenever a shipping casualty happens anywhere in the case of a ship registered in Canada, or within the limits of Canada in the case of any other British ship, the master, or if the master is dead the chief surviving officer, and also every such other person belonging to the ship as the Minister may from time to time direct, shall, within twenty-four hours of his first landing in Canada after the happening of such casualty, attend and submit himself for examination at the office of the principal officer of customs residing at or near the place where such casualty occurred, if the same occurred on or near the coast of Canada, or any island or place adjacent thereto; but if the casualty occurred elsewhere, at or near the place of such landing, unless he has been previously examined or excused from attending for examination by any other principal officer of customs residing at or near either of such places or by any receiver of wreck in the United Kingdom; and if any master, officer or other person makes default in obeying the provisions of this section, he shall incur a penalty not exceeding two hundred dollars.

24. Whenever the managing owner of any ship registered in Canada has information that such ship is lost, or in consequence of her non-arrival or otherwise has reason to apprehend that she is lost, he shall forthwith send notice of such loss or apprehended loss to the Minister, and shall upon requisition by the Minister furnish to him such information as he may be required and able to furnish respecting such ship and the loss thereof, and the property and persons on board, and if he makes default in obeying the provisions of this section, he shall incur a penalty of not exceeding two hundred dollars.

25. Every Registrar of Shipping shall, on or before the twentieth day of January in each year, make and forward to the Minister a return, in such form and containing such particulars as the Minister may from time to time direct, of all existing ships of which the registry remained in his registry books, on the thirty-first day of December then last.

#### UNSEAWORTHY SHIPS.

26. If complaint is made to the Minister that any ship registered

in Canada is, by reason of the defective condition of her hull or equipment, or by reason of her being overloaded or improperly loaded, unfit to proceed to sea, or on any voyage on any waters within the limits of Canada, the Minister may cause such ship to be surveyed by a person appointed by him, first exacting from the complainant, if he thinks fit so to do, a deposit of money to defray the expenses of the survey, and to pay any loss which may be sustained by the owner on account of any detention, or such security for the payment of such expenses and loss as he may deem sufficient; and if such person report that the hull or equipments of such ship is or are in such a state, or that such ship is so loaded that she could not proceed to sea or on any such voyage, as the case may be, without serious danger to human life, the Minister may declare such ship to be unseaworthy, and thereupon any principal officer of customs may detain such ship.

Every such complaint shall be in writing, and shall state the name and address of the complainant; and a copy of the complaint, including the name and address of the complainant, shall before or during such survey be given by the Minister to the master or to an owner of the ship.

If, upon such survey, such ship is found to be seaworthy, the expenses of the survey shall be paid to the Minister by the person making the complaint, without prejudice to any right of suit or action against him by any person aggrieved by the complaint.

If, upon such survey, such ship is found to be unseaworthy, the expenses of the survey shall be paid to the Minister by the owner of the ship.

27. Any shipowner who is dissatisfied with the decision of any person appointed by the Minister under the next preceding section may appeal to the Court of Vice-Admiralty having jurisdiction in the place where such ship was surveyed, if any there be, and if not then to the Court of Vice-Admiralty holding its sittings nearest to the place where such ship was surveyed, and such court may, if such court think fit, appoint a competent person or competent persons to survey such ship anew. Upon any such appeal, such court may make such order as to the detention or discharge of the ship, as to the payment, whether by the Crown or otherwise, of any costs and damages which may have been occasioned by her detention and as to the payment of the expenses of the original survey and of the survey anew, as to such court seems just.

28. Any person appointed either by the Minister or by any Court of Vice-Admiralty to survey a ship under the provisions of the next preceding sections of this Act may in the execution of his duty go on board such ship at all reasonable times and inspect the same or any

part thereof, or any of the equipments, cargo or articles on board thereof, or the certificate of registry thereof, not unnecessarily detaining or delaying the ship in proceeding on her voyage; and if such person considers it necessary to do so, he may require the ship to be so dealt with as that he may be able to inspect every part of the hull thereof; and whosoever hinders any person so appointed from going on board any ship; or otherwise impedes him in the execution of his duty under this Act, shall for every such offence incur a penalty not exceeding twenty dollars.

29. Every person, who, having authority, as owner or otherwise, to send a ship registered in Canada to sea, or on any voyage on any waters within the limits of Canada from any port or place in Canada, sends her to sea or on any such voyage from any such port or place in an unseaworthy state, so as to endanger the life of any person belonging to her on board the same, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to make and keep the ship seaworthy, and was ignorant of such unseaworthiness, or that her going to sea, or on such voyage, in an unseaworthy state was, under the circumstances, reasonable and unavoidable, and for this purpose he may give evidence in the same manner as any other witness. A misdemeanor under this section shall not be punishable on summary conviction.

## PART II.

### LICENSING OF SMALL SHIPS AND OTHER VESSELS.

30. The master or owner, or managing owner, or one of the managing owners, if there be more than one, of every ship exempted by section seven of this Act from the provisions of the first part of this Act, and of every vessel not being a ship within the meaning of this Act, employed in or owned for the purpose of fishing or trading or carrying loads of any kind in any of the waters of Canada at the commencement of this Act, shall within three months from and after that date, and the master or owner of every such ship or vessel so employed or owned for such purpose, shall within one month from the date of her being so employed by him, or of her being built or acquired for the purpose of so employing her, take from the collector or other principal officer of the customs at some port or place in Canada a license, which it shall be the duty of the collector or other principal officer of the customs at every port or place in Canada to furnish, without fee or reward, to every person applying for the same at his custom house or office in office hours and complying with the provisions of this section in respect of such application; and such license shall be in the form of and shall contain the particulars provided for in form B. in the second schedule to this Act.

31. Upon any such application being made to a collector or other



principal officer of the customs, the following provisions shall take effect :

(a.) The collector or principal officer of customs shall furnish the applicant gratis, with a printed blank for a declaration in the form of form A. in the second schedule to this Act.

(b.) The applicant shall fill up the said form with true statements, in their proper places, of the length, breadth, depth and approximate tonnage of the ship or vessel, the names of the owner or owners thereof, and, if the property in the ship or vessel be divided into shares, the number of shares held by each owner, and shall subscribe the same ; and return the same to the officer.

(c.) The officer shall then fill up a license with the particulars stated in the declaration, adding thereto the name of the port and the number of the license, which shall be consecutive for each port, and sign such license, and hand the same to the applicant.

(d.) The officer shall record the particulars contained in the license in a book, to be kept by him for that purpose.

32. Every ship or vessel required to be licensed under the provisions of section thirty of this Act, shall at all times have the name of the port or place at which she was last licensed, which shall be considered for the time being her port of license, with the number of her last license, painted on her bow or stern in letters not less than three inches long, of light color, on a dark ground.

33. Whenever the property in a ship or vessel required to be licensed as aforesaid, passes wholly into new hands, the master or the new owner or managing owner, or one of the new managing owners, if there be more than one, shall within one month from and after such change of ownership as aforesaid, take out a new license at some port or place in Canada ; and upon receiving the same shall deliver up the former license, if in his possession, to the collector or other principal officer of the customs at such port or place.

34. Every master or owner or managing owner of any ship or vessel required to be licensed under the provisions of this part of this Act who neglects without reasonable cause (the proof of which shall lie upon him) to apply for and take out a license for such ship or vessel within any delay allowed by this Act for that purpose, or who neglects to keep the name of her last port of license and the number of her last license painted on her bow or stern as aforesaid, shall incur a penalty of twenty dollars. .

35. Every officer of customs authorized by this part of this Act to license ships and vessels shall on or before the twentieth day of January in each year make and forward to the Minister a return, in such form and containing such particulars as the Minister may from time

to time direct, of all ships and vessels licensed by him during the year ending on the thirty-first day of December then last.

### PART III.

#### SECURITY FOR ADVANCES ON SHIPS IN COURSE OF CONSTRUCTION.

36. A ship about to be built or being built may be recorded under a temporary name by the Registrar of Shipping at or nearest to the port at which she is about to be built or is being built; and any builder desirous of raising money by a mortgage on any ship about to be built or being built, shall furnish to the Registrar of Shipping, at the port at or nearest to which she is about to be built, or is being built, a full description of such ship, and a statement of the port at which she is intended to be registered, according to the form A. in the third Schedule to this Act, and shall indicate the ship to be built or being built by painting on a board near the place of such building in his ship yard, on a dark ground, in white or yellow figures and letters of a length not less than four inches, the number given him by the proper Registrar of Shipping for that purpose, the temporary name of the ship, and the name of the port at which she is intended to be registered.

37. A ship about to be built or being built, and so recorded as aforesaid, may be made security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "mortgage," shall be in the form marked B in the third Schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the Registrar of Shipping at the port at which the ship is recorded shall enter the same in a record book to be kept by him for that purpose.

38. Every such mortgage shall be recorded by the proper Registrar of Shipping in the order of time in which the same is produced to him for that purpose; and such Registrar of Shipping shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

39. Whenever any recorded mortgage has been discharged, the proper Registrar of Shipping shall, upon the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the record book to the effect that such mortgage has been discharged; and upon such entry being made, the estate, if any, which passed to the mortgagee, shall vest in the said person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

40. If there is more than one mortgage recorded of the same ship,

the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the record book, and not according to the date of each instrument itself.

41. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship, except in so far as may be necessary for making such ship available as security for the mortgage debt.

42. Every recorded mortgagee shall have power absolutely to dispose of the ship in respect of which he is recorded as such, and to give effectual receipts for the purchase money; but if there are more persons than one recorded as mortgagees of the same ship, no second or subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship without the concurrence of every prior mortgagee; and every bill of sale, when duly executed, shall be produced to the proper Registrar of Shipping, who shall enter the particulars thereof in the record book, and shall endorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale shall be entered in the record book in the order of their production to the Registrar of Shipping.

43. No recorded mortgage of any ship under this Act shall be affected by the mortgagor becoming insolvent after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming insolvent, may have such ship in his possession and disposition and be reputed owner of such ship; and such mortgage shall be preferred to any right, claim or interest in such ship which may belong to the assignee of such insolvent.

44. A recorded mortgage of any ship may be transferred to any person; and the instrument creating such transfer shall be in the form marked C in the third Schedule hereto; and on the production of such instrument the Registrar of Shipping shall enter in the record book the name of the transferee as mortgagee of the ship therein mentioned, and shall, by memorandum under his hand, record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

45. If the interest of any mortgagee in any ship recorded under this Act becomes transmitted in consequence of death or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form marked D in the third Schedule hereto, and containing a

statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed in the presence of the Registrar of Shipping at the port at which such ship has been recorded under this Act, if the declarant resides at or within five miles of the custom house of the port, but if beyond that distance, in the presence of any Registrar of Shipping, Collector of Customs, or Justice of the Peace, and shall be accompanied by such evidence as is herein before required to authenticate a corresponding transmission of property from one recorded mortgagee to another.

46. The Registrar of Shipping, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the record book as mortgagee or mortgagees of the ship in respect of which such transmission has taken place.

47. Whenever the building of a ship which has been recorded under this Act shall be duly completed the first mortgagee whose claim is unsatisfied may furnish the builder's certificate for such ship, and thereupon the proper officer may grant a certificate of registry under the laws in force in Canada for that purpose; and all undischarged mortgages recorded under this Act shall be by the proper Registrar of Shipping transferred to and registered under such laws in the register book, in the order and according to the priority in which the same were entered of record under this Act; and the temporary name used for the purposes of this Act, as above provided for, may be changed at the time of granting a certificate of registry; and the registry of all such mortgages shall thus appear, according to their priority in the record book, as if the same had been made or granted under the laws providing for the giving of such certificate of registry; and a fresh instrument of mortgage may be granted for that purpose, according to any form prescribed by law, as a substitute for any mortgage granted under this Act.

48. In case any person who is a party to any unsatisfied mortgage on any ship under this Act, takes out, or attempts to take out, a register for such ship, at any port other than the port named on the board in the ship yard in which such ship was built, or in the statement and description, in the form A in the third Schedule of this Act, furnished to the Registrar of Shipping, by whom such ship was recorded under this Act, such person shall incur a penalty of two thousand dollars, to be recovered with costs, by any person who may first sue for the same before any court of competent jurisdiction, in any Province in Canada in which the offender is served with process.

49. No Surveyor of Shipping, who is not also a Registrar of Shipping, shall deliver up any certificate of survey of any ship which

he has surveyed for measurement to any person except the Registrar of Shipping at the port at or for which he is Surveyor, and at which such ship is recorded under this Act, until the Registrar of Shipping at such port has endorsed on the back of such certificate either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Act, or a statement of the amount and other particulars, and if more than one, the number, of the undischarged mortgage or mortgages (if any) on such ship recorded in his office under this Act; and every Registrar of Shipping is hereby required to endorse one of such statements, according to the facts of each case, on every certificate of measurement presented to him for that purpose by any Surveyor of Shipping.

50. In case the Registrar of Shipping at any port at which any ship is recorded under this Act is also Surveyor of Shipping at or for such port, he is hereby required to endorse on every certificate of survey of any ship which he has surveyed for measurement, before he delivers the same to any person, either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Act, or a statement of the amount and other particulars, and, if more than one, the number of the undischarged mortgage or mortgages (if any) on such ship, recorded in his office under this Act.

51. The Governor in Council may establish a scale of fees for recording ships and mortgages and other transactions, and for other services to be performed under this Act, prior to the registry of any ship under "The Merchant Shipping Act, 1854," or any Act or Acts amending or applying to the same.

52. Nothing in this part of this Act shall take away the right of the owner to his action of account, or such other remedy as he may have by law against the advancee.

53. This Act shall not be construed in any case in such a way as to affect the mode of executing deeds in the Province of Quebec, but whenever the said Province shall be concerned, deeds and documents executed in the said Province shall be made and passed in the form and according to the manner prescribed in the said Province.

#### PART IV.

##### INSPECTION AND CLASSIFICATION OF SHIPS.

54. The Governor in Council may make such rules and regulations as he may consider necessary for the inspection and classification of

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FORM OF DECLARATION OF OWNER OR OWNERS FOR CHANGE OF  
MASTERS.

Declared before me this day of

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I passed  
the said

### DECLARATION

regulations  
ation of

## APPENDIX.

Measurements.	Feet.	Inches.	Tonnage.	No. of Tons.
Length.....			Approximate tonnage.....	
Breadth.....				
Depth.....				
Names of Owners (or Name of Owner.)			Number of Shares held by each.*	
.....			.....	
.....			.....	
.....			.....	
.....			.....	

.....  
 Master,  
 (or Managing Owner, or Owner,  
 as the case may be.)

Dated this            day of            18

\* If the property in the ship or vessel be not divided into shares, this column need not be filled up.

## Form B.

No.

Port of Registry.

## LICENSE.

This is to certify that the ship (or vessel, *as the case may be*) of which the particulars are herein contained, was this day licensed by me, the collector (or principal officer, *as the case may be*) of customs at            under the provisions of the Act passed in the thirty-sixth year of her Majesty's reign, intituled "An Act relating to shipping and for the registration, inspection and classification thereof."

# CANADIAN ACT: REGISTRATION OF SHIPPING. 263

Measurements.	Feet.	Inches.	Tonnage.	No of Tons.
Length.....			Approximate tonnage.....	
Breadth.....				
Depth.....				

Names of Owners (or Name of Owner.)	Number of Shares held by each.*
-------------------------------------	---------------------------------

.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Dated this          day of          18          .....

\* If the property in the ship or vessel be not divided into shares, this column need not be filled up.

## THIRD SCHEDULE.

*Form A.*—(See Section 36).

### DESCRIPTION OF SHIP PROPOSED TO BE BUILT.

TEMPORARY NAME.	PORT OF RECORD.	PROPELLED.
-----------------	-----------------	------------

Number of decks.....	Build.....
Number of Masts.....	Gallery.....
How rigged.....	Head.....
Stern.....	Frame work.....

### ESTIMATED MEASUREMENT.

	FEET. TENTHS.	Tons.
Length.....	Under deck.....	
Breadth.....	Closed in.....	
Depth.....	Space between deck.....	
	Poop.....	
	Round House.....	



I, the undersigned (name and residence), ship builder, declare that I propose to build a ship, the particulars of which are contained in the above description, in the (here describe the place, what ship yard, where situated, and to whom belonging), and that I intend to launch the said ship on or about the                      day of                      18                      and to register her at the port of

(Signed),

Dated at  
the                      day of                      18  
in the presence of {

*Form B. - (See Section 37.)*

MORTGAGE (TO SECURE ACCOUNT CURRENT, ETC.)

For                      \*                      Port of

\* (Steamer or sailing).

Record No.	Where Building.	When intended to be Launched.	Port of Intended Registry.

Intended to Measure.

Intended Tonnage and Temporary Name.

Length,	feet	Tonnage,
Breadth,	feet	Name,
Depth,	feet	

Whereas (state that there is an account current between Mortgagor and Mortgagee (describing both), and describe the nature of the transaction so as to show how the amount of principal and interest due at any given time is to be ascertained, and the manner and time of payment.)

Now (I or we), the undersigned, (describe them) in consideration of the premises for (myself or ourselves) and (my or our) heirs, covenant with the said (name him or them) and (his or theirs) assigns, to pay to him or them the sums for the time being due on this security, whether by way of principal or interest, at the times and in the manner above mentioned, and for better securing to the said (name), the payment of such sums as last aforesaid; (I or we) do hereby mortgage to the said (name) the ship above described.

# CANADIAN ACT: REGISTRATION OF SHIPPING. 265

Lastly (I or we) for (myself or ourselves), and (my or our) heirs, covenant with the said (name of him or them) and (his or their) assigns that (I or we) have power to mortgage in manner aforesaid, the above mentioned ship, and that the same is free from incumbrances, save as appear by the record of the said ship.

N. B.—The last words to be omitted if the ship is free from incumbrances.

In witness whereof (I or we) have hereto subscribed (my or our) name \_\_\_\_\_ and affixed (my or our) seal, \_\_\_\_\_ at this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_ Executed by the above named \_\_\_\_\_ in the presence of \_\_\_\_\_

## Form C. (See Section 44).

N. B.—In case of transfer, it may be made by endorsement in the following form :

### TRANSFER OF MORTGAGE.

(a) "I" or (a) the within mentioned \_\_\_\_\_ in considera-  
"We," tion of \_\_\_\_\_ this day paid to  
(b) "Me" or (b) by \_\_\_\_\_ hereby transfer to  
"Us," (c) "Him" or (c) the benefit \_\_\_\_\_ of the  
"Them," within-written security.  
(d) "I" or In witness whereof (d) have hereunto subscribed  
"We," (e) name and affixed (e) seal, this \_\_\_\_\_ day  
(e) "My" or of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_  
"Our," Executed by the above named \_\_\_\_\_  
in the presence of \_\_\_\_\_

N. B.—In case a mortgage is paid off, the following memorandum of its discharge may be used :

Received the sum of \_\_\_\_\_ in discharge of the within  
written security. Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
Witness \_\_\_\_\_  
of \_\_\_\_\_

## Form D.—(See Section 45.)

Declaration by Representative of \_\_\_\_\_ taking by Transmission.\*  
For \_\_\_\_\_  
\* (or decease, or marriage, or bankruptcy).  
† (Steamer or for sailing).

Record No.

Date of Record

18

Temporary name of ship

Where building

Proposed measurement, length, ft., breadth, ft., depth ft.

Proposed tonnage, tons.

I (or we), the undersigned (declarant's name, description and place of birth), declare as follows I am (or we are)

I (or we), declare that the person appearing by the record book to be the (owner or mortgagee) of the ship above described (cause of transmission) in the county of (county) on the day of (nature of cause of transmission)

Made and subscribed the day )  
of 18 by the above )  
named )  
in the presence of )

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## CANADIAN ACT: REGISTRATION OF SHIPPING.

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### 40 VICTORIA.

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#### CHAP. 19.

An Act respecting the Measurement of Steam Ships registered under the repealed Act of the late Province of Canada.

[Assented to 28th April, 1877.]

**W**HEREAS by the Act passed in the thirty-sixth year of Her Majesty's Reign, intituled "An Act relating to Shipping, and for the registration, inspection and classification thereof," which came into force by proclamation on the twenty-seventh day of March, one thousand eight hundred and seventy-four, the Act chapter forty-one of the Consolidated Statutes of the late Province of Canada, intituled:—"An Act respecting the registration of Inland Vessels," was repealed, but ships registered under it were not required to be re-registered or re-measured; and whereas steamships registered in Canada on or after the said day were and are under the Act first above cited, to be measured for registration in the manner prescribed

# CANADIAN ACT: REGISTRATION OF SHIPPING. 267

by the Act of the Imperial Parliament, known as "The Merchant Shipping Act, 1854," and such measurement is made by different rules and gives a tonnage different from that given by the rules prescribed by the said Canadian Act; and whereas this difference is found to be inconvenient and unfair and it is expedient that the same rules of measurement should be used in both cases: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Every steamship registered in Canada before the said twenty-seventh day of March, one thousand eight hundred and seventy-four, and measured for registration by any other rules than those prescribed by "The Merchant Shipping Act, 1854," shall, after the passing of this Act, be re-measured for tonnage in the manner and according to the rules prescribed by "The Merchant Shipping Act, 1854," and, for the purpose of making such re-measurement, the Surveyor at any Canadian Port, or any Surveyor appointed for the purpose by the Governor, is hereby authorized to go on board such steamship at any reasonable time, and the owner, master or officers of the ship shall afford him the proper facilities and assistance in making the same; and the ship's tonnage ascertained by such re-measurement shall be marked as the law requires, and entered on her register and certificate of registry by the registrar of her port of registry, and shall thereafter be deemed to be her tonnage for all purposes except those of "An Act respecting the Inspection of Steamboats and for the greater safety of Passengers by them," passed in the thirty-first year of Her Majesty's reign, and the Acts in amendment thereof, for which last mentioned purposes the tonnage shall remain as at present: and on and after the first day of July next, no clearance shall be granted to any such steamship at any port in Canada, nor shall she exercise any privilege of a British ship, or be recognized as being so, until she has been re-measured and the tonnage so ascertained has been entered on her register, and certificate of registry, and marked as hereby required: Provided always, that the tonnage dues on any such steamship shall be payable according to her present registered tonnage until the 1st of July next (1877), on and after which day they shall be payable according to her registered tonnage under this Act.

2. Any owner, master or officer of a ship refusing or neglecting when called upon by a duly appointed surveyor so to do, to afford him the proper facilities and assistance for the measurement of the ship under this Act, or any person willfully obstructing such surveyor in making such measurement, shall thereby incur a penalty of forty dollars, recoverable in a summary manner before any Justice of the Peace; and such penalty shall belong to the Crown for the public uses of the Dominion.

3. No fee shall be payable to the surveyor by the owner or master of any steamship for the remeasurement thereof under this Act.

4. This Act shall be construed as one Act with that herein first cited and hereby amended.

## MERCHANT SHIPPING ACT, 1854.

### PART II.

#### BRITISH SHIPS :—THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

##### APPLICATION.

XVII. The Second Part of this Act shall apply to the whole of Her Majesty's Dominions.

##### DESCRIPTION AND OWNERSHIP OF BRITISH SHIPS.

XVIII. No ship shall be deemed to be a British Ship unless she belongs wholly to owners of the following description ; that is to say,

(1.) Natural-born British Subjects :

Provided that no natural-born Subject who has taken the Oath of Allegiance to any Foreign Sovereign or State shall be entitled to be such Owner as aforesaid, unless he has subsequently to taking such last-mentioned Oath taken the Oath of Allegiance to Her Majesty, and is and continues to be during the whole Period of his so being an Owner resident, in some Place within Her Majesty's Dominions, or if not so resident, Member of a British Factory, or Partner in a House actually carrying on Business in the United Kingdom or in some other Place within Her Majesty's Dominions :

(2) Persons made Denizens by letters of Denization, or naturalized by or pursuant to any Act of the Imperial Legislature, or by or pursuant to any Act or Ordinance of the proper Legislative Authority in any British Possession :

Provided that such Persons are and continue to be during the

whole Period of their so being Owners resident in some Place within Her Majesty's Dominions, or if not so resident, Members of a British Factory, or Partners in a House actually carrying on a Business in the United Kingdom or in some other Place within Her Majesty's Dominions, and have taken the Oath of Allegiance to Her Majesty subsequently to the Period of their being so made Denizens or naturalized :

- (3.) Bodies Corporate established under, subject to the Laws of, and having their principal Place of Business in the United Kingdom or some British Possession.

XIX. Every British Ship must be registered in manner herein after mentioned, except,

- (1.) Ships duly registered before this Act comes into operation ;  
 (2.) Ships not exceeding Fifteen Tons Burden, employed solely in Navigation on the Rivers or Coasts of the United Kingdom, or on the Rivers or Coasts of some British Possession within which the Managing Owners of such Ships are resident ;  
 (3.) Ships not exceeding Thirty Tons Burden, and not having a whole or fixed Deck, and employed solely in fishing or trading coastwise on the Shores of Newfoundland or Parts adjacent thereto, or in the Gulf of St. Lawrence, or on such Portion of the Coast of Canada, Nova Scotia or New Brunswick as lie bordering on such Gulf.

And no ship hereby required to be registered shall, unless registered, be recognized as a British Ship ; and no Officer of Customs shall grant a Clearance or Transire to any Ship hereby required to be registered for the purpose of enabling her to proceed to Sea as a British Ship, unless the Master of such ship, upon being required so to do, produces to him such Certificate of Registry as is hereinafter mentioned ; and if such Ship attempts to proceed to Sea as a British Ship without a Clearance or Transire, such Officer may detain such Ship until such Certificate is produced to him.

#### MEASUREMENT OF TONNAGE.

XX. Throughout the following Rules the Tonnage Deck shall be taken to be the Upper Deck in Ships which have less than three Decks, and to be the Second Deck from below in all other Ships ; and in carrying such Rules into effect all Measurements shall be taken in feet or fractions of feet, and all fractions of feet shall be expressed in Decimals.

XXI. The Tonnage of every Ship to be registered, with the exceptions mentioned in the next Section, shall previously to her being registered be ascertained by the following Rule hereinafter called Rule I. ; and the Tonnage of every Ship to which such Rule can be

applied, whether she is about to be registered or not, shall be ascertained by the same Rule:—

- (1.) Measure the Length of a Ship in a straight line along the upper side of the Tonnage Deck from the inside of the inner Plank (average thickness) at the Side of the Stem to the Inside of the Midship Stern Timber or Plank there, as the case may be, (average thickness,) deducting from this Length what is due to the Rake of the Bow in the thickness of the Deck, and what is due to the Rake of the Stern Timber in the Thickness of the Deck, and also what is due to the Rake of the Stern Timber in One Third of the Round of the Beam; divide the Length so taken into the Number of equal Parts required by the following Table, according to the Class in such Table to which the Ship belongs:

TABLE

- Class 1. Ships of which the Tonnage Deck is according to the above Measurement 50 Feet long or under, into 4 equal Parts.
- “ 2. Ships of which the Tonnage Deck is according to the above measurement above 50 Feet long and not exceeding 120, into 6 equal Parts.
- Class 3. Ships of which the Tonnage Deck is according to the above Measurement above 120 Feet long and not exceeding 180 into 8 equal Parts:
- “ 4. Ships of which the Tonnage Deck is according to the above Measurement above 180 Feet long and not exceeding 225, into 10 equal Parts.
- “ 5. Ships of which the Tonnage Deck is according to the above Measurement above 225 Feet long, into 12 equal Parts.

- (2.) Then, the Hold being first sufficiently cleared to admit of the required Depths and Breadths being properly taken, find the Transverse Area of such Ship at each Point of Division of the Length as follows: Measure the Depth at each Point of Division, from a Point at a Distance of One Third of the Round of the Beam below such Deck, or in case of a break, below a Lane stretched in continuation thereof, to the Upper Side of the Floor Timber at the Inside of the Limber Strake, after deducting the average Thickness of the Ceiling which is between the Bilge Planks and Limber Strake; then, if the Depth of the Midship Division of the Length do not exceed Sixteen Feet, divide each Depth into Four equal Parts; then measure the inside horizontal Breadth at each of the Three Points of Division, and also at the upper and lower Points of the Depth, extending each Measurement to the average Thick-

ness of that Part of the Ceiling which is between the Points of Measurement; number these Breadths from above (*i. e.*, numbering the upper Breadth One, and so on down to the lowest Breadth); multiply the Second and Fourth by Four, and the Third by Two; add these Products together, and to the Sum add the First Breadth and the Fifth; multiply the Quantity thus obtained by One Third of the common Interval between the Breadths, and the Product shall be deemed the Transverse Area; but if the Midship Depth exceed Sixteen Feet, divide each Depth into Six equal Parts instead of Four, and measure as before directed the horizontal Breadths at the Five Points of Division, and also at the upper and lower Points of the Depth; number them from above as before; multiply the Second, Fourth and Sixth by Four, and the Third and Fifth by Two; add these Products together, and to the Sum add the First Breadth and the Seventh; multiply the Quantity thus obtained by One Third of the common Interval between the Breadths, and the Product shall be deemed the Transverse Area.

(3.) Having thus ascertained the Transverse Area at each Point of Division of the Length of the Ship as required by the above Table, proceed to ascertain the Register Tonnage of the Ship in the following Manner: Number the Areas successively 1, 2, 3, &c., No. 1 being at the extreme Limit of the Length at the Bow, and the last No. at the extreme Limit of the Length at the Stern; then whether the Length be divided according to the Table, into Four or Twelve Parts as in Classes 1 and 5, or any intermediate Number as in Classes 2, 3, and 4, multiply the Second and every even numbered Area by Four, and the Third and every odd numbered Area (except the First and Last) by Two; add these Products together, and to the Sum add the First and Last if they yield anything; multiply the Quantity thus obtained by One Third of the common Interval between the Areas, and the product will be the Cubical Contents of the space under the Tonnage Deck; divide this Product by One hundred, and the Quotient being the Tonnage under the Tonnage Deck shall be deemed to be the Register Tonnage of the Ship, subject to the additions and deductions hereinafter mentioned.

(4.) If there be a Break, or Poop, or any other permanent closed-in Space on the Upper Deck, available for Cargo or Stores, or for the Berthing or Accommodation of Passengers or Crew, the Tonnage of such Space shall be ascertained as follows: Measure the internal mean Length of such Space in Feet, and divide into Two equal Parts; measure at the Middle of its Height Three inside Breadths, namely one at each End and the other at the Middle of the Length; then to the Sum of the End Breadth.



add Four times the Middle Breadth, and multiply the whole Sum by One Third of the common Interval between the Breadths ; the Product will give the mean horizontal Area of such Space ; then measure the mean Height, and multiply it by the mean horizontal Area ; divide the Products by One Hundred, and the Quotient shall be deemed to be the Tonnage of such space and shall be added to the Tonnage under the Tonnage Deck, ascertained as aforesaid, subject to the following Provisions : first, that nothing shall be added for a closed-in Space solely appropriated to the berthing of the Crew unless such Space exceeds One Twentieth of the remaining Tonnage of the Ship, and in case of such Excess the Excess only shall be added ; and, secondly, that nothing shall be added in respect of any building erected for the Shelter of Deck Passengers, and approved by the Board of Trade.

- (5) If the Ship has a Third Deck, commonly called a Spar Deck, the Tonnage of the Space between it and the Tonnage Deck shall be ascertained as follows : Measure in feet the inside Length of the Space at the Middle of its Height from the Plank at the Side of the Stem to the Lining on the Timbers at the Stern, and divide the Length into the same Number of equal parts into which the Length of the Tonnage Deck is divided as above directed ; measure (also at the Middle of its Height) the inside Breadth of the Space at each of the Points of Division, also the Breadth at the Stem and the Breadth at the Stern ; number them successively 1, 2, 3, &c., commencing at the Stem ; multiply the Second and all the other even numbered Breadths by Four, and the Third and all the other odd numbered Breadths (except the First and Last) by Two ; to the Sum of these Products and the First and Last Breadths ; multiply the whole Sum by One Third of the common Interval between the Breadths, and the Result will give in Superficial Feet the mean horizontal Area of such Space ; measure the mean Height of such Space, and multiply by the mean horizontal Area, and the Product will be the Cubical Contents of the Space ; divide this Product by One hundred, and the Quotient shall be deemed to be the Tonnage of such Space, and shall be added to the other Tonnage of the Ship ascertained as aforesaid ; and if the Ship has more than Three Decks, the Tonnage of each Space between Decks above the Tonnage Deck shall be severally ascertained in manner above described, and shall be added to the Tonnage of the Ship ascertained as aforesaid.

XXII. Ships, which, requiring to be measured for any Purpose other than Registry, have Cargo on board, and Ships, which, requiring to be measured for the Purpose of Registry, cannot be measured by

the Rule above given, shall be measured by the following Rule, hereinafter called Rule II.

- (1.) Measure the Length on the Upper Deck from the Outside of the outer Plank at the Stem to the Aftside of the Stern Post, deducting therefrom the Distance between the Aftside of the Stern Post and the Rabbet of the Stern Post at the Point where the Counter Plank crosses it; measure also the greatest Breadth of the Ship to the Outside of the outer Planking or Wales, and then, having first marked on the Outside of the Ship on both sides thereof the Height of the Upper Deck at the Ship's Side, girt the Ship at the greatest Breadth in a Direction perpendicular to the Keel from the Height so marked on the Outside of the Ship on the one Side to the Height so marked on the other Side by passing a Chain under the Keel: to Half the Girth thus taken add Half the main Breadth; square the Sum; multiply the Result by the Length of the Ship taken as aforesaid; then multiply this Product by the Factor .0018 (Eighteen Ten-Thousands) in the Case of Ships built of wood, and by .0021 (Twenty-one-ten-thousandths) in the Case of Ships built of Iron, and the Product shall be deemed the Register Tonnage of the Ship, subject to the Additions and Deductions hereinafter mentioned.

- (2.) If there be a Break, a Poop, or other closed-in Space on the Upper Deck, the Tonnage of such Space shall be ascertained by multiplying together the mean Length, Breadth and Depth of such Space, and dividing the Product by 100, and the Quotient so obtained shall be deemed to be the Tonnage of such Space, and shall, subject to the Deduction for a closed-in Space appropriated to the Crew as mentioned in Rule I., be added to the Tonnage of the Ship ascertained as aforesaid.

XXIII. In every Ship propelled by Steam or other Power requiring Engine Room, an Allowance shall be made for the Space occupied by the propelling Power, and the Amount so allowed shall be deducted from the gross Tonnage of the Ship ascertained as aforesaid, and the Remainder shall be deemed to be the Register Tonnage of such Ship; and such Deduction shall be estimated as follows; (that is to say,)

(a.) As regards Ships propelled by Paddle Wheels in which the Tonnage of the Space solely occupied by and necessary for the proper working of the Boilers and Machinery is above Twenty per cent. and under Thirty per cent. of the gross Tonnage of the Ship, such Deduction shall be Thirty-seven One-hundredths of such gross Tonnage; and in Ships propelled by Screws in which the Tonnage of such Space is above Thirteen per cent. and under Twenty per cent. of such gross Tonnage, such Deduction shall be Thirty-two One-hundredths of such gross Tonnage:

(b.) As regards all other Ships, the Deduction shall, if the Commissioners of Customs and the Owner both agree thereto, be estimated in the same Manner : but either they or he may in their or his Discretion require the Space to be measured and the Deduction estimated accordingly ; and whenever such Measurement is so required the Deduction shall consist of the Tonnage of the Space actually occupied by or required to be inclosed for the proper Working of the Boilers and Machinery, with the Addition in the Case of Ships propelled by Paddle Wheels of One Half, and in the Case of Ships propelled by Screws of Three Fourths of the Tonnage of such Space ; and the Measurement and Use of such Space shall be governed by the following Rules ; (that is to say.)

- (1.) Measure the mean Depth of the Space from its Crown to the Ceiling at the Limber Strake, measure also Three, or, if necessary, more than Three Breadths of the Space at the Middle of its Depth, taking One of such Measurements at each End, and another at the Middle of the length ; take the Mean of such Breadths ; measure also the mean Length of the Space between the foremost and aftermost Bulkheads or Limits of its Length, excluding such Parts, if any, as are not actually occupied by or required for the proper Working of the Machinery ; multiply together these Three Dimensions of Length, Breadth, and Depth, and the Product will be the Cubical Contents of the Space below the Crown ; then find the Cubical Contents of the Space or Spaces, if any, above the Crown aforesaid, which are framed in for the Machinery or for the Admission of Light and Air, by multiplying together the Length, Depth, and Breadth thereof ; add such Contents to the Cubical Contents of the Space below the Crown ; divide the Sum by 100 ; and the Result shall be deemed to be the Tonnage of the said Space :
- (2.) If in any Ship in which the Space aforesaid is to be measured the Engines and Boilers are fitted in separate Compartments, the Contents of each shall be measured severally in like Manner, according to the above Rules, and the Sum of their several Results shall be deemed to be the Tonnage of the said Space :
- (3.) In the Case of Screw Steamers in which the Space aforesaid is to be measured, the Contents of the Shaft Trunk shall be added to and deemed to form Part of such Space, and shall be ascertained by multiplying together the mean Length, Breadth, and Depth of the Trunk, and dividing the Product by 100 :
- (4.) If in any Ship in which the Space aforesaid is to be measured any Alteration be made in the Length or Capacity of such Space, or if any Cabins be fitted in such Space, such Ship shall be deemed to be a Ship not registered until Remeasurement :
- (5.) If in any Ship in which the Space aforesaid is to be measured

any Goods or Stores are stowed or carried in such Space, the Master and Owner shall each be liable to a Penalty not exceeding One hundred Pounds.

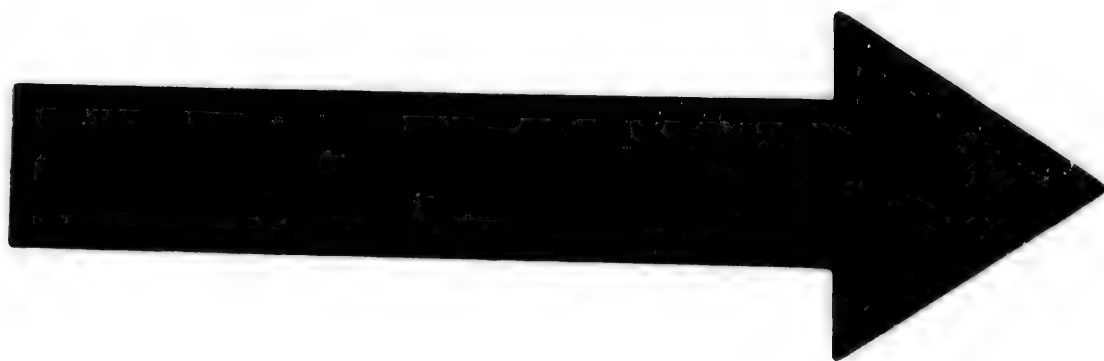
XXIV. In ascertaining the Tonnage of open Ships the upper Edge of the upper Strake is to form the Boundary Line of Measurement, and the Depths shall be taken from an athwartship Line, extended from upper Edge to upper Edge of the said Strake at each Division of the Length.

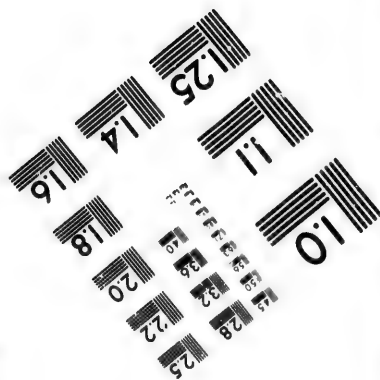
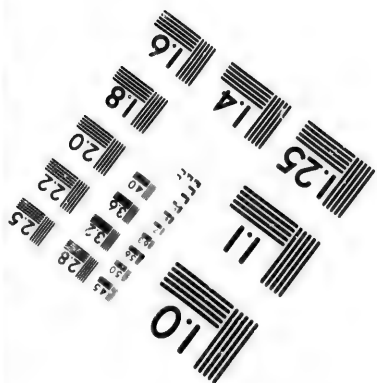
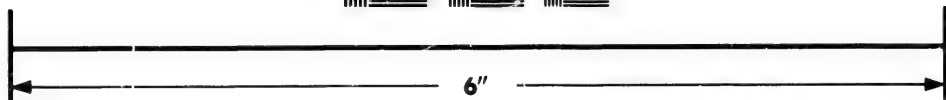
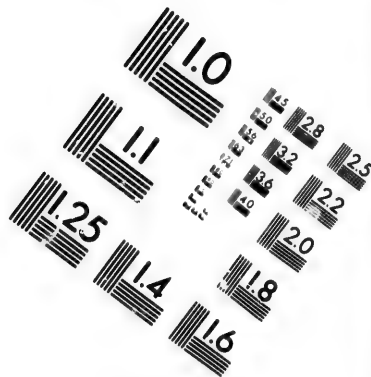
XXV. In every registered British Ship the Number denoting the Register Tonnage, ascertained as hereinbefore directed, and the Number of her Certificate of Registry, shall be deeply carved or otherwise permanently marked on her Main Beam, and shall be so continued; and if it at any time cease to be so continued such Ship shall no longer be recognized as a British Ship.

XXVI. Whenever the Tonnage of any Ship has been ascertained and registered in accordance with the Provisions of this Act, the same shall thenceforth be deemed to be the Tonnage of such Ship, and be repeated in every subsequent Registry thereof, unless any Alteration is made in the Form or Capacity of such Ship, or unless it is discovered that the Tonnage of such Ship has been erroneously computed, and in either of such Cases such Ship shall be remeasured and her Tonnage determined and registered according to the Rules hereinbefore contained in that Behalf.

XXVII. The Rules for the Measurement of Tonnage herein contained shall not make it necessary to alter the present registered Tonnage of any British Ship registered before this Act comes into operation; but if the Owner of any such Ship desires to have the same remeasured according to such Rules, he may apply to the Commissioners of Customs for the Purpose, and such Commissioners shall thereupon, and on Payment of such reasonable Charge for the Expenses of Remeasurement, not exceeding the Sum of Seven Shillings and Sixpence for each Transverse Section, as they may authorize, direct such Remeasurement to be made, and such Ship shall thereupon be remeasured according to such Rules as aforesaid, or according to such of them as may be applicable; and the number denoting the Register Tonnage shall be altered accordingly.

XXVIII. If it appears to the Commissioners of Customs that in any Steam Ship measured before this Act comes into operation Store Rooms or Coal Bunkers have been introduced into or thrown across the Engine Room, so that the Deduction from the Tonnage on account of the Engine Room is larger than it ought to be, the said Commissioners may, if they think fit, direct such Engine Room to be remeasured according to the Rules in force before this Act comes into operation, excluding the space occupied by such Store Rooms





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or Coal Bunkers, or may, if the Owners so desire, cause the Ship to be remeasured according to the Rules hereinbefore contained, and subject to the Conditions contained in the last preceding Section ; and after Remeasurement the said Commissioners shall cause the Ship to be Registered anew, or the Registry thereof to be altered as the case may require.

XXIX. The Commissioner of Customs may, with the Sanction of the Treasury, appoint such Persons to superintend the Survey and Admeasurement of Ships as they think fit ; and may, with the Approval of the Board of Trade, make such regulations for that Purpose as may be necessary ; and also with the like approval, make such Modifications and Alterations as from Time to Time become necessary in the Tonnage Rules hereby prescribed, in order to the more accurate and uniform Application thereof, and the effectual carrying out of the Principle of Admeasurement therein adopted.

REGISTRY OF BRITISH SHIPS.

XXX. The following Persons are required to register British Ships, and shall be deemed Registrars for the Purposes of this Act : (that is to say,)

- (1.) At any Port or other Place in the United Kingdom or Isle of Man approved by the Commissioners of Customs for the Registry of Ships, the Collector, Comptroller, or other principal Officer of Customs for the Time being ;
- (6.) At every other Port or Place so approved as aforesaid within Her Majesty's Dominions abroad, the Collector, Comptroller, or other principal Officer of Customs or of Navigation Laws, or if there is no such Officer resident at such Port or Place, the Governor, Lieutenant Governor, or other Person administering the Government of the Possession in which such Port or Place is situate.

XXXI. The Governor, Lieutenant Governor, or other Person administering the Government in any British Possession where any Ship is registered under the Authority of this Act shall, with regard to the Performance of any Act or Thing relating to the Registry of a Ship or of any Interest therein, be considered in all respects as occupying the Place of the Commissioners of Customs ; and any British Consular Officer shall, in any Place where there is no Justice of the Peace, be authorized to take any Declaration hereby required or permitted to be made in the Presence of a Justice of the Peace.

XXXII. Every Registrar shall keep a Book, to be called "The Register Book," and enter therein the Particulars hereinafter required to be registered.

XXXIII. The Port or Place at which any British Ship is registered for the Time being shall be considered her Port of Registry or the Port to which she belongs.



XXXIV. The following Rules shall be observed with respect to the Names of British registered Ships ; (that is to say,)

- (1.) Before Registry the Name of each Ship and of the Port to which she belongs shall be painted on a conspicuous Part of her Stern on a dark Ground in White or Yellow Letters of a Length not less than Four Inches :
- (2.) No Change shall be made in the Name of any registered Ship :
- (3.) No Concealment, Absence, or avoidable Obliteration of the above names shall be permitted, except for the Purpose of escaping Capture by an Enemy :
- (4.) The Ship shall not be described by or with the Knowledge of the Owner or Master by any Name other than the One by which she is registered.

And for every Breach of the above Rules or any of them the Owner and Master shall each incur a Penalty not exceeding One hundred Pounds.

XXXV. Every Application for the Registry of a Ship shall in the Case of Individuals be made by the Person requiring to be registered as Owner, or by some One or more of such Persons if more than One, or by his or their duly authorized Agent, and in the Case of Bodies Corporate by their duly authorized Agent ; the Authority of such Agent, if appointed by Individuals, to be testified by some Writing under the Hands of the Appointors, and if appointed by a Body Corporate, by some Instrument under the Common Seal of such Body Corporate.

XXXVI. Before Registry, the Ship shall be surveyed by a Person duly appointed under this Act ; and such Surveyor shall grant a Certificate in the Form marked A. in the Schedule hereto, specifying her Tonnage, Build, and such other Particulars descriptive of the Identity of the Ship as may from Time to Time be required by the Board of Trade ; and such Certificate shall be delivered to the Registrar before Registry.

XXXVII. The following Rules shall be observed with respect to Entries in the Register Book ; (that is to say,)

- (1.) The Property in a Ship shall be divided into Sixty-four Shares :
- (2.) Subject to the Provisions with respect to joint Owners or Owners by Transmission hereinafter contained, not more than Thirty-two Individuals shall be entitled to be registered at the same Time as Owners of any One Ship ; but this Rule shall not affect the beneficial Title of any Number of Persons or of any Company represented by or claiming under or through any registered Owner or joint Owner :
- (3.) No Person shall be entitled to be registered as Owner of any

fractional Part of a Share in a Ship ; but any Number of Persons, not exceeding Five, may be registered as joint Owners of a Ship or of a Share or Shares therein :

- (4.) Joint Owners shall be considered as constituting One Person only as regards the foregoing Rule relating to the Number of Persons entitled to be registered as Owners, and shall not be entitled to dispose in severalty of any Interest in any Ship or in any Share or Shares therein in respect of which they are registered :
- (5.) A Body Corporate may be registered as Owner by its Corporate Name.

XXXVIII. No Person shall be entitled to be registered as Owner of a Ship or any Share therein until he has made and subscribed a Declaration in the Form marked B. in the Schedule hereto, referring to the Ship as described in the Certificate of the Surveyor, and containing the following Particulars : (that is to say,)

- (1.) A Statement of his Qualification to be an Owner of a Share in a British Ship.
2. A Statement of the Time when and the Place where such Ship was built, or (if the Ship is Foreign built, and the Time and Place of building not known,) a Statement that she is Foreign built, and that he does not know the Time and Place of her building ; and in addition thereto the Case of a Foreign Ship, a Statement of her Foreign Name, or (in the Case of a Ship condemned) a Statement of the Time, Place, and Court at and by which she was condemned.
- (3.) A Statement of the Name of the Master.
- (4.) A Statement of the Number of Shares in such Ship of which he is entitled to be registered as Owner.
- (5.) A Denial that, to the best of his Knowledge and Belief, any unqualified Person or Body of Persons is entitled as Owner to any legal or beneficial Interest in such Ship or any Share therein.

The above Declaration of Ownership shall be made and subscribed in the Presence of the Registrar if the Declarant reside within Five Miles of the Custom House of the Port of Registry, but if beyond that distance in the Presence of any Registrar or of any Justice of the Peace.

XXXIX. No Body Corporate shall be entitled to be registered as Owner of a Ship or of any Share therein until the Secretary or other duly appointed Public Officer of such Body Corporate has made and subscribed in the Presence of the Registrar of the Port of Registry a Declaration in the Form marked C. in the Schedule hereto, referring to the Ships as described in the Certificate of the Surveyor, and containing the following particulars ; (that is to say,)

- (1.) A Statement of such Circumstances of the Constitution and Business of such Body Corporate as prove it to be qualified to own a British Ship.
- (2.) A Statement of the Time when and the Place where such Ship was built, or (if the Ship is Foreign built, and the Time and Place of building unknown), a statement that she is Foreign built, and that he does not know the Time or Place of her building; and, in addition thereto, in the Case of a Foreign Ship, a Statement of her Foreign Name, or (in the Case of a Ship condemned) a Statement of the Time, Place, and Court at and by which she was condemned.
- (3.) A Statement of the Name of the Master.
- (4.) A Statement of the Number of Shares in such Ship of which such Body Corporate is Owner.
- (5.) A Denial that, to the best of his Knowledge and Belief, any unqualified Person or Body of Persons is entitled as Owner to any legal or beneficial Interest in such Ship or any Share therein.

**XL.** Upon the First Registry of a Ship there shall, in addition to the Declaration of Ownership, be produced the following Evidence: (that is to say,)

- (1.) In the Case of a British built Ship, a Certificate (which the Builder is hereby required to grant under his Hand) containing a true Account of the proper Denomination and of the Tonnage of such ship as estimated by him, and of the Time when and of the Place where such Ship was built, together with the Name of the Party (if any) on whose Account he has built the same, and if any Sale or Sales have taken place, the Bill or Bills of Sale under which the Ship or Share therein has become vested in the Party requiring to be registered as Owner.
- (2.) In the Case of a Foreign built Ship, the same evidence as in the Case of a British built Ship, unless the Person requiring to be registered as Owner, or, in the Case of a Body Corporate, the duly appointed Officer, declares that the Time or Place of her building is unknown, or that the Builder's Certificate cannot be procured, in which Case there shall be required only the Bill or Bills of Sale under which the Ship or Share therein became vested in the Party requiring to be registered as Owner thereof.
- (3.) In the Case of a Ship condemned by any competent Court, an Official Copy of the Condemnation of such Ship.

**XLI.** If any Builder wilfully makes a false Statement in any Certificate hereby required to be granted by him, he shall for every such Offence incur a penalty not exceeding One hundred Pounds.

**XLII.** As soon as the foregoing Requisites to the due Registry of a Ship have been complied with, the Registrar shall enter in the

Register Book the following Particulars relating to such Ship ;  
(that is to say,)

- (1.) The Name of the Ship and of the Port to which she belongs ;
- (2.) The Details as to her Tonnage, Build, and Description comprised in the Certificate hereinbefore directed to be given by the Surveyor ;
- (3.) The several Particulars as to her Origin stated in the Declaration or Declarations of Ownership ;
- (4.) The Names and Descriptions of her registered Owner or Owners, and if there is more than One such Owner, the Proportions in which they are interested in such Ship.

XLIII. No Notice of any Trust, express implied, or constructive, shall be entered in the Register Book, or receivable by the Registrar ; and subject to any Rights and Powers appearing by the Register Book to be vested in any other Party, the registered Owner of any Ship or Share therein shall have power absolutely to dispose in manner hereinafter mentioned of such Ship or Share, and to give effectual Receipts for any Money paid or advanced by way of Consideration.

CERTIFICATE OF REGISTRY.

XLIV. Upon the Completion of the Registry of any Ship the Registrar shall grant a certificate of Registry in the Form marked D. in the Schedule hereto comprising the following Particulars ;  
(that is to say,)

- (1.) The Name of the Ship and of the Port to which she belongs ;
- (2.) The Details as to her Tonnage, Build, and Description comprised in the Certificate hereinbefore directed to be given by the Surveyor ;
- (3.) The Name of her Master ;
- (4.) The several Particulars as to her Origin stated in the Declaration or Declarations of Ownership ;
- (5.) The Names and Descriptions of her registered Owner or Owners, and if there is more than One such Owner, the Proportions in which they are respectively interested, indorsed upon such Certificate.

XLV. Whenever any Change takes place in the registered Ownership of any Ship, then, if such Change occurs at a Time when the Ship is at her Port of Registry, the Master shall forthwith deliver the Certificate of Registry to the Registrar, and he shall indorse thereon a Memorandum of such Change ; but if such Change occurs during the Absence of the Ship from her Port of Registry, then upon her first Return to such Port the Master shall deliver the Certificate of Registry to the Registrar, and he shall indorse thereon a like Memorandum of the Change ; or if she pre-

viously arrives at any Port where there is a British Registrar, such Registrar shall, upon being advised by the Registrar of her Port of Registry of the Change having taken place, indorse a like Memorandum thereof on the Certificate of Registry, and may for that Purpose require the Certificate to be delivered to him, so that the Ship be not thereby detained; and any Master who fails to deliver to the Registrar the Certificate of Registry as hereinbefore required shall incur a Penalty not exceeding One hundred Pounds.

XLVI. Whenever the Master of any British registered Ship is changed, the following Persons, that is to say, if such Change is made in consequence of the Sentence of any Naval Court, the presiding Officer of such Court, but if the Change takes place from any other Cause, the Registrar, or if there is no Registrar the British Consular Officer resident at the Port where such Change takes place, shall indorse on the Certificate of Registry a Memorandum of such Change, and subscribe his Name to such Indorsement, and forthwith report the Change of Master to the Commissioners of Customs in London; and the Officers of Customs at any Port situate within Her Majesty's Dominions may refuse to admit any Person to do any Act at such Port as Master of any British Ship, unless his Name is inserted in or indorsed upon the Certificate of Registry of such Ship as the last appointed Master thereof.

XLVII. The Registrar may, with the sanction of the Commissioners of Customs, upon the Delivery up to him of the former Certificate of Registry, grant a new Certificate in the Place of the one so delivered up.

XLVIII. In the event of the Certificate of Registry of any Ship being mislaid, lost, or destroyed, if such Event occurs at any Port in the United Kingdom, the Ship being registered in the United Kingdom, or at any Port in any British Possession, the Ship being registered in the same British Possession, then the Registrar of her Port of Registry shall grant a new Certificate of Registry in lieu of and as a Substitute for her original Certificate of Registry; but if such event occurs elsewhere, the Master or some other Person having knowledge of the circumstances shall make a Declaration before the Registrar of any Port having a British Registrar at which such ship is at the time, or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of the declarant's knowledge and belief; and the Registrar shall thereupon grant a Provisional Certificate as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such Provisional Certificate is granted.

XLIX. Every such Provisional Certificate shall, within ten days, after the first subsequent arrival of the ship at her port of discharge

in the United Kingdom, if registered in the United Kingdom, or if registered elsewhere, at her port of discharge in the British Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master neglects to deliver up such certificate within such time he shall incur a penalty not exceeding fifty pounds.

L. The Certificate of Registry shall be used only for the lawful Navigation of the Ship, and shall not be subject to Detention by reason of any Title, Lien, Charge, or Interest whatsoever which any Owner, Mortgagee, or other Person may have or claim to have on or in the Ship described in such Certificate; and if any Person whatever, whether interested or not in the Ship, refuses on Request to deliver up such Certificate when in his Possession or under his Control to the Person for the Time being entitled to the Custody thereof for the Purposes of such lawful Navigation as aforesaid, or to any Registrar, Officer of the Customs, or other Person legally entitled to require such Delivery, it shall be lawful for any Justice by Warrant under his Hand and Seal, or for any Court capable of taking cognizance of such Matter, to cause the Person so refusing to appear before him and to be examined touching such Refusal; and unless it is proved to the Satisfaction of such Justice or Court that there was reasonable cause for such Refusal the Offender shall incur a Penalty not exceeding One hundred Pounds; but if it is made to appear to such Justice or Court that the Certificate is lost, the Party complained of shall be discharged, and such Justice or Court shall thereupon certify that the Certificate of Registry is lost.

LI. If the person charged with such Detainer or Refusal is proved to have absconded, so that the Warrant of the Justice or process of the Court cannot be served upon him, or if he persists in his refusal to deliver the Certificate, such Justice or Court shall certify the Fact, and the same proceedings may then be taken as in the case of a Certificate of Registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

LII. If the Master or Owner of any ship uses or attempts to use for the Navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a Misdemeanor, and it shall be lawful for any commissioned officer on full pay in the Military or Naval service of Her Majesty, or any British officer of Customs, or any British Consular officer, to seize and detain such ship, and to bring her for Adjudication before the High Court of Admiralty in England or Ireland or any Court having Admiralty Jurisdiction in Her Majesty's Dominions; and if such Court is of opinion that such use or attempt at use has taken place, it shall pro-

nounce such ship, with her tackle, apparel, and furniture, to be forfeited to Her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

LIII. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a Transfer to any persons not qualified to be owners of British ships, or of any other matter or thing, any such ship as aforesaid ceases to be a British ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the Registrar at the port of registry of such ship, gave such notice to him, and he shall make an entry thereof in his Register Book and except in cases where the Certificate of Registry is lost or destroyed, the master of every ship so circumstanced as aforesaid, shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his Arrival in port, deliver the Certificate of Registry of such ship to the Registrar, or, if there be no Registrar, to the British Consular Officer at such port, and such Registrar if he is not himself the Registrar of her port of registry, or such British Consular Officer, shall forthwith forward the Certificate so delivered to him to the Registrar of the port of registry of the ship; and every owner and master who, without reasonable cause, makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

LIV. If any ship becomes the property of persons qualified to be Owners of British ships at any foreign port, the British Consular Officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating:

The name of the ship:

The time and place of her purchase, and the names of her purchasers;

The name of her master;

The best particulars as to her tonnage, build, and description that he is able to obtain;

And he shall forward a copy of such certificate, at the first convenient opportunity, to the Commissioners of Customs in London: The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a British Registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

#### TRANSFER AND TRANSMISSIONS.

LV. A registered ship or any share therein, when disposed of to

persons qualified to be owners of British ships, shall be transferred by bill of sale ; and such bill of sale shall contain such description of the ship as is contained in the certificate of the Surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of and be attested by one or more witnesses.

LVI. No individual shall be entitled to be registered as Transferee of a ship or any share therein until he has made a declaration in the form marked F. in the Schedule hereto, stating his qualifications to be registered as Owner of a share in a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership by an original owner ; and no body corporate shall be entitled to be registered as Transferee of a ship or any share therein until the Secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the Schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership made on behalf of a body corporate : In the case of an Individual, the above declaration shall be made, if he reside within five miles of the Custom House of the port of registry, in the presence of the Registrar, but if beyond that distance in the presence of any Registrar or of any Justice of the Peace ; in the case of a body corporate the declaration shall be made in the presence of the Registrar of the port of registry.

LVII. Every bill of sale to the transfer of any registered ship, or of any share therein when duly executed, shall be produced to the Registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a Transferee ; and the Registrar shall thereupon enter in the register book the name of the Transferee as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof ; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the Registrar.

LVIII. If the property in any ship or in any share therein becomes transmitted in consequence of the death or bankruptcy or Insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the Schedule



hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferee, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and described if the declarant resides at or within five miles of the custom house of the port of registry in the presence of the Registrar, but if beyond that distance in the presence of any Registrar or of any Justice of the Peace.

LIX. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in Courts of Justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the Register of such Marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then in England, Wales, and Ireland the said declaration shall be accompanied by the probate of the will or the letters of administration of an official extract therefrom, and in Scotland or in any British possession by the will or any copy thereof that may be evidence by the laws of Scotland or of such possession, or by letters of administration or any copy thereof, or by such other document as may by the laws of Scotland or of such possession be receivable in the Courts of Judicature thereof as Proof of the Person entitled upon an intestacy.

LX. The Registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons, if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

LXI. Of the documents hereby required to be produced to the Registrar he shall retain in his possession the following: that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

LXII. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner or on the marriage of any female owner in any person not qualified to be the owner of British ships, it shall be lawful, if such ship is registered in England or Ireland for the Court of Chancery, if in Scotland for the

Court of Session, or if in any British possession for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the Justice of the case may require.

LXIII. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold to some person or persons named by the court, and such Nominee or Nominees shall thereupon be entitled to transfer such ships or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such Nominee or Nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisition of any registered owner or owners of such ship or share.

LXIV. Every such Application aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the date of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner herein-after directed with respect to interests acquired by unqualified owners in ships using a British flag and assuming the British character.

LXV. It shall be lawful in England or Ireland for the Court of Chancery, in Scotland for the court of session, in any British possession for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either *ex parte* or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted with or without costs, and generally to act in the premises

in such manner as the justice of the case requires ; and every Registrar, without being made a party to the proceedings, upon being served with such order, or an official copy thereof, shall obey the same.

## MORTGAGES.

LXVI. A registered ship or any share therein may be made a security for a loan or other valuable consideration ; and the instrument creating such security, hereinafter termed a " mortgage," shall be in the form marked L in the Schedule hereto or as near thereto as circumstances permit ; and on the production of such instrument the Registrar of the port at which the ship is registered shall record the same in the register book.

LXVII. Every such mortgage shall be recorded by the Registrar in the order of time in which the same is produced to him for that purpose ; and the Registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

LXVIII. Whenever any registered mortgage has been discharged the Registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged ; and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

LXIX. If there is more than one mortgage registered of the same ship or share therein, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

LXX. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship or any share therein, nor shall the mortgagee be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as a security for the mortgage debt.

LXXI. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money ; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

LXXII. No registered mortgage of any ship or of any share therein shall be affected by any act of bankruptcy committed by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof which may belong to the assignees of such bankrupt.

LXXIII. A registered mortgage of any ship or share in a ship may be transferred to any person, and the instrument creating such transfer shall be in the form marked K. in the schedule hereto, and on the production of such instrument the Registrar shall enter in the register book the name of the transferee as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

LXXIV. If the interest of any Mortgagee in any ship or in any share therein becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form marked L. in the Schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the Registrar, but if beyond that distance in the presence of any Registrar or of any Justice of the Peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

LXXV. The Registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

#### CERTIFICATES OF MORTGAGE AND SALE.

LXXVI. Any registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the Registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned, to be called respectively certificates or

mortgage certificates of sale, according as they purport to give a power to mortgage or a power to sell.

LXXVII. Previously to any certificate of mortgage or sale being granted, the applicant shall state to the Registrar, to be by him entered in the register book, the following particulars; (that is to say,)

- (1.) The names of the persons by whom the power mentioned in such certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum; and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum.
- (2.) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained:
- (3.) The limit of time within which such power may be exercised.

LXXVIII. No certificate of mortgage or sale shall be granted so as to authorize any mortgage or sale to be made—

At any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same British possession if the port of registry is situate within a British possession; or

By any person not named in the certificate.

LXXIX. Certificates of mortgage and sale shall be in the forms marked respectively M. and N. in the schedule hereto, and shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

LXXX. The following rules shall be observed as to certificates of mortgage; (that is to say,)

- (1.) The power shall be exercised in conformity with the directions contained in the certificate:
- (2.) A record of every mortgage made thereunder shall be indorsed thereon by a Registrar or British Consular Officer:
- (3.) No mortgage *bona fide* made thereunder shall be impeached by reasons of the person by whom the power was given dying before the making of such mortgage.
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage *bona fide* made to a mortgagee without notice, shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given;

- (5.) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of entry of the certificate in the registry book, and if there be more mortgages than one so endorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied or constructive notice, be entitled one before the other according to the date at which a record of each instrument is indorsed on the certificate and not according to the date of the instrument creating the mortgage :
- (6.) Subject to the foregoing rules every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate :
- (7.) The discharge of any mortgage so registered on the certificate may be indorsed thereon by any Registrar or British Consular Officer, upon the production of such evidence as is hereby required to be produced to the Registrar on the entry of the discharge of a mortgage in the registry book ; and upon such indorsement being made, the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances (if any) have vested if no such mortgage had been made :
- (8.) Upon the delivery of any certificate of mortgage to the Registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

LXXXI. The following rules shall be observed as to certificates of sale ; (that is to say,)

- (1.) No such certificate shall be granted except for the sale of an entire ship :
- (2.) The power shall be exercised in conformity with the directions contained in the certificate :
- (3.) No sale *bona fide* made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale :
- (4.) Whenever the certificate contains a specification of the place or places at which, and the limit of time not exceeding twelve months within which, the power is to be exercised, no sale *bona fide* made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :

- (5.) Any transfer made to a person qualified to be the owner of British ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit :
- (6.) If the ship is sold to a party qualified to hold British ships, the ship shall be registered anew ; but notice of all mortgages enumerated on the certificate of sale, shall be entered in the register book :
- (7.) Previously to such registry anew there shall be produced to the Registrar required to make the same the bill of sale, by which the ship is transferred, the certificate of sale and the certificate of registry of such ship :
- (8.) Such last-mentioned Registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last mentioned Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein :
- (9.) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee :
- (10.) If the ship is sold to a party not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate or registry shall be produced to some Registrar or Consular Officer, who shall retain the certificates of sale and registry, and, having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of British ships, shall forward such certificates to the Registrar of the port appearing on the certificate of registry to be the port of registry of such ship ; and such last-mentioned Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgages entered therein :
- (11.) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by British law as having acquired no title to or interest in the ship ; and further, the party upon whose application such cer-



tificate was granted, and the persons exercising the power, shall each incur a penalty not exceeding one hundred pounds :

- (12.) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the Registrar by whom the same was granted ; and such Registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

LXXXII. Upon proof at any time to the satisfaction of the commissioners of customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the Registrar, with the sanction of the said commissioners, as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done as might have been made or done if no such loss or obliteration had taken place.

LXXXIII. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the place or places where the power thereby given is to be exercised, may by an instrument under his hand made in the form marked O. in the schedule hereto, or as near thereto as circumstances permit, authorize the Registrar by whom such certificate was granted to give notice to the Registrar, or Consular Officers, at such place or places, that such certificate is revoked ; and notice shall be given accordingly ; and all Registrars or Consular Officers receiving such notice shall record the same and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate or mortgage or sale ; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect ; and every Registrar or Consular Officer recording any such notice shall thereupon state to the Registrar by whom the certificate was granted, whether any previous exercise of the power to which such certificate refers has taken place.

*Registry anew, and Transfer of Registry.*

LXXXIV. Whenever any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a Registrar, the Registrar of such port, but if made elsewhere, the Registrar of the first port having a Registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper



Surveyor specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorsed on the existing certificate a memorandum of such alteration and subscribe his name to such indorsement; and the Registrar to whom such application as aforesaid is made, if he is the Registrar of the port of registry of the ship, shall himself enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned Registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the Registrar of the port of registry of the ship, who shall retain such old certificate (if any), and enter such particulars and facts in his register book accordingly.

LXXXV. When the Registrar to whom application is made in respect of any such alteration is aforesaid is the Registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship, and if he is not such Registrar at lastly hereinbefore mentioned he may nevertheless require such ship to be registered anew, but he shall in such lastmentioned case grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the Registrar of the port of registry of the ship a like statement.

LXXXVII. Every such provisional certificate, or certificate provisionally indorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the Registrar thereof, who shall thereupon cause such ship to be registered anew in the same manner in all respects as hereinbefore required on the first registry of any ship.

LXXXVII. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognized as a British ship.

LXXXVIII. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the Registrar of the port at which such ship is already registered,

on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the Registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

LXXXIX. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the Registrar of such port, but if beyond that distance in the presence of any registrar or of any justice in the peace.

XC. Upon such application being made as is hereinbefore mentioned, and upon the delivery to him of the certificate of registry, the Registrar of the port at which such ship is already registered shall transmit to the Registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned Registrar shall, upon the receipt of such notice, enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

XCI. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested herein as owners or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

*Registry, Miscellaneous.*

XCII. Every person may, upon payment of a fee to be fixed by the commissioners of customs not exceeding one shilling, have access to the register book for the purpose of inspection at any reasonable time during the hours of official attendance of the Registrar.

XCIII. No Registrar shall be liable to damages or otherwise for any loss according to any person by reason of an Act done or default made by him in his character of Registrar, unless the same has happened through his neglect or wilful Act.

XCIV. Every Registrar in the United Kingdom shall at the ex-

piration of every month, and every other Registrar shall without delay, or at such stated times as may be fixed by the Commissioners of Customs, transmit to the custom house in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to them in their character of Registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said Commissioners.

XCV. All fees authorized to be taken under the second part of this Act shall, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the treasury may direct, but if taken elsewhere shall be disposed of in such way as the Executive Government of the British possession in which they are taken may direct.

XCVI. The commissioners of customs shall cause the several forms required or authorized to be used by the second part of this Act, and contained in the Schedule hereto, to be supplied to all Registrars within Her Majesty's Dominions for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct, and the said commissioners, with the consent of the board of trade, may from time to time make such alterations in the forms contained in the Schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any Act or thing to be done in pursuance of the second part of this Act, as they may think fit.

XCVII. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the Registrar, it is shown to the satisfaction of the Registrar, that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the Registrar, with the sanction of the commissioners of customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

XCVIII. In cases where it appears to the commissioners of cus-

toms, or to the Governor or other person administering the government of any British possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from one port or place in Her Majesty's Dominions to any other port or place within the same, it shall be lawful for such commissioners or Governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

XCIX. If any person interested in any ship or any share therein is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person; and all Acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

C. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties with or without joining the other of them.

*Forgery.*

CI. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or endorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony.

*National Character.*

CII. No officer of customs shall grant a clearance or transire for any ship until the master of such ship has declared to such officer the

name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or transire; and if any ship attempts to proceed to sea without such clearance or transire, any such officer may detain her until such declaration is made.

CHH. The offences hereinafter mentioned shall be punishable as follows: (that is to say,)

- (1.) If any person uses the British flag and assumes the British National character on board any ship owned in whole or in part by any person not entitled by law to own British ships for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British National character shall lie upon the person using and assuming the same:
- (2.) If the master or owner of any British ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits, or is privy to the commission of the offence, shall be guilty of a misdemeanor.
- (3.) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned, acquires as owner any interest, either legal or beneficial, in a ship using a British flag and assuming a British character, such interest shall be forfeited to Her Majesty:
- (4.) If any person on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own British ships or any share therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty:

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British

officer of customs or any British Consular Officer to seize and detain any ship which has either wholly or as to any share therein become subject to forfeiture as aforesaid, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having admiralty jurisdiction in Her Majesty's dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

CIV. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the Judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; if no such grounds are shown, such Judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just.

CV. If any colors usually worn by Her Majesty's ships, or any colors resembling those of Her Majesty, or any distinctive national colors, except the red ensign usually worn by merchant ships, or except the Union Jack with a white border, or if the Pendant usually carried by Her Majesty's ships, or any Pendant in anywise resembling such Pendant, are or is hoisted on board any ship or boat belonging to any subject of Her Majesty without warrant for so doing from Her Majesty or from the admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of Her Majesty, or any British officer of the customs, or any British Consular Officer to board any such ship or boat, and to take away such Jack, Colors or Pendant; and such Jack, Colors, or Pendant shall be forfeited to Her Majesty.

CVI. Whenever it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of British ships shall not be recognized as a British ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships, and shall not be entitled to use the British flag, or assume the British National character; but so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall

be dealt with in the same manner in all respects as if she were a recognized British ship.

*Evidence.*

CXXII. Every register or declaration made in pursuance of the second part of this Act in respect of any British ship may be proved in any court of justice, or before any person having by law, or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof purporting to be certified under the hand of the Registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same upon payment of one shilling for each such certified copy; and every such register or copy of a register, and of a registry certificate of registry of any British ship, purporting to be signed by the Registrar or other proper officer, shall be received in evidence in any court of justice, or before any person having by law or by consent of parties authority to receive evidence as *prima facie* proof of all the matters contained or recited in such register when the register or such copy is produced, and of all the matters contained in or indicated on such certificate of registry, and purporting to be authenticated by the signature of a Registrar, when such certificate is produced.

*Saving Clause.*

CXXIII. Any court having admiralty jurisdiction in any of Her Majesty's Dominions, may upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner or consignee, or by the agent of the owner, or by any certified Mate or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the Master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent, of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new Master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

**Merchant Shipping Act Amendment Act,  
1855, Sec. 9 to 15.**

18 AND 19 VICT., CAP. 91.

IX. Any person who, in any declaration made in the presence of or produced to any Registrar of Shipping, in pursuance of the sec

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and part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such Registrar, wilfully makes, or assists in making, or procures to be made, any false statement concerning the title to, or the ownership of or the interests existing in, any ship or any share or shares in any ship, or who utters, produces, or makes use of any declaration or document containing any such false statement, knowing the same to be false, shall be guilty of a misdemeanor.

X. Shares in ships registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock," as defined by the Trustee Act, 1850, and the provisions of such last mentioned Act shall be applicable to such shares accordingly.

XI. In any case in which any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or any share or shares therein, or of any interest therein, is made in any form or contains any particulars other than the form and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no Registrar shall be required to record the same without the express direction of the commissioners of Her Majesty's customs.

XII. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the nineteenth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose may be delivered up to the Registrar of either of such ports.

XIII. The Commissioners of Customs may, with the consent of the Board of Trade, exempt any pleasure Yacht from the provision contained in the thirty-fourth section of the Merchant Shipping Act, 1854, which requires the name of every ship and port to which she belongs to be painted on her stern.

XIV. The owner of any ship which is measured under rule II., contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the Commissioners of customs to have the said ship remeasured under rule I., contained in the twenty-first section of the same Act, and the said commissioners thereupon, and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.

XV. The copy or transcript of the register of any British ship which is kept by the chief Registrar of shipping at the custom house in London, or by the Registrar General of seamen, under the direction of Her Majesty's Commissioners of Customs or of the Board of Trade, shall have the same effect to all intents and purposes as the original register of which the same is a copy or transcript.



## Merchant Shipping Act Amendment Act, 1862.

25 AND 26 VICT., CAP. 63, SECS. 3 AND 4.

Registry and Measurement of Tonnage (Part II. of Merchant Shipping Act, 1854.)

3. It is hereby declared that the expression "Beneficial Interest," whenever used in the second part of the principal Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the Registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of British ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.

4. Any body corporate or persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy such tonnage rates upon the registered tonnage of the ships as determined by the rules for the measurement of tonnage for the time being in force under the Principal Act, notwithstanding that the Local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

## Act to Amend Merchant Shipping Act.

34 AND 35 VIC. CHAP. CX.

Sec. 12. On and after the first day of January, 1872, the 25 and 34 sections of the Merchant Shipping Act, 1854, and the 13th section of the Merchant Shipping Amendment Act, 1855, shall be repealed.

## Merchant Shipping Acts Amendment.

36 AND 37 VIC., CHAP. LXXXV.

### *Preliminary.*

1. This Act may be cited as the Merchant Shipping Act 1873.
2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and

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this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873.

*(Registry. Part II. of Merchant Shipping Act, 1854).*

3. Every British ship registered after the passing of this Act shall before registry, and every British ship registered before the passing of this Act shall, on or before the first day of January one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows :

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth :

Her official number and the number denoting her registered tonnage shall be cut in on her main beam :

A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve.

The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them.

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts, 1854 to 1873.

An owner or master of a British ship who neglects to cause his ships to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of customs on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked may detain the same until the insufficiency or inaccuracy has been remedied.

Provided that no fishing vessel duly registered, lettered and num-

bered in pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section.

Provided also that if any registered British ship is not within a port of the United Kingdom at any time before the first day of January one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.

4. The record of the draught of water of any sea-going ship required under section five of the Merchant Shipping Act, 1871, shall, in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers anyone under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

5. Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no Registrar shall knowingly register such ship, except by the name which she bore as a foreign ship immediately before becoming a British ship, unless with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

Any person who acts or suffers any person under his control to act in contravention of this section shall for each offence incur a penalty not exceeding one hundred pounds.

6. Where a ship has ceased to be registered as a British ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

22. If the managing owner, or, in the event of there being no managing owner, the ship's husband of any British ship have reason, owing to the non-appearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as

### 304 MERCHANT SHIPPING ACT AMENDMENTS.

soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglect to do so within a reasonable time he shall incur a penalty not exceeding fifty pounds.

**30.** There shall be paid in respect of the several measurements inspections and surveys mentioned in the third schedule hereto such fees, not exceeding those specified in that behalf in the said schedule as the Board of Trade may from time to time determine.

WTS.

rade notice  
eof, stating  
the port to  
enable time

asurements  
hereto such  
d schedule

(Form A. see Section 36.)

## MERCHANT SHIPPING ACT, 1854.

## CERTIFICATE OF SURVEY.

Name of Ship.	Port of intended Registry.	Official Number, if there has been any former Registry.
"Hospodar"	St. John, N. B.	
Whether British or Whether a Sailing or Steam Ship: Foreign Built. and if a Steam ship, how propelled.	Where Built.	New Vessel.
British.....Sailing.....		
	Gardners Creek, St. John County, N. B.	In the year 1874..... October, 1874.....
		W. & R. Wallace Gardners Creek, St. John Co., N. B.
Number of Decks.....Two and a Poop Deck.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post.....	Feet. Tenthis. 212 8
Number of Masts.....Three.		
Rigged.....Ship.	Main breadth to outside of plank.....	40 4
Stern.....Round.	Depth in hold from tonnage deck to ceiling at mid-ship.....	23 7
Build.....Carvel.		
Galleries.....None.	Depth in hold from upper deck to ceiling at mid-ship, in the case of three decks and upwards.....	
Head.....Man figure.	Length of engine room (if any).....	
Framework.....Wood.		
PARTICULARS OF ENGINES (if any.)		
No. of Engines. Description.	Whether British or Foreign made.	When made.
	Name and Address of Makers.	Diameter of Length of No. of Horses Power Cylinders. Stroke. Combined.

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and Address of Makers.	Cylinders.	Stroke.	Combined.
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# PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTION ALLOWED.	No. of Tons.
Under Tonnage Deck.....	1363.67	On account of space required for propelling power...	
Closed-in spaces above the Tonnage Deck, if any		On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Space or spaces between Decks.....	153.52	These spaces are the following, viz.:	
Poop.....	24.32	Forecastle (2 Sections)	24.32
Forecastle (2 Sections).....	40.13	In-Round House aft (1 Section).....	7.53
Round House Forward.....			
Less Galley.....	46.38		
Other closed-in spaces, if any, as follows :			
		Cubic Metre.	
Gross Tonnage.....	1581.64	4476.04	
Deductions, as per Contra.....	31.85	90.14	
Registered Tonnage.....	1549.79	4385.90	31.85
		Total.....	

I, the undersigned James Barber, Measuring Surveyor for the Port of Saint John, N. B., having surveyed the above-named Ship, hereby certify that the above particulars are true, and that her Name is marked on each of her bows, and her Name and the Port of Registry are properly marked on a conspicuous part of her stern, and a scale of feet marked on each side of her stem and of her stern post, in manner directed by the Merchant Shipping Act, 1873.

(Signed,) JAMES BARBER, Surveyor.

Dated at Saint John, N. B., this 10th day of November, 1874.

Form B. (1) See Section 38.

Resident or Non-resident }  
Owner or Transferee } Natural-born Subject.

## DECLARATION OF OWNERSHIP BY INDIVIDUAL

Official Number of Ship.		Name of Ship.	No., Date, and Port of Registry.
66,995		"Hospodar"	St. John, N. B.
No., Date, and Port of previous Registry (if any).....			
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a steam ship, how propelled.			
+ British.....		Where Built.	Name and Address of Builders.
Sailing.....			
		Gardners Creek, St. John in the year 1874.....	W. & R. Wallace, Gardners
		County, N. B. ....	Launched on the 14th Creek, St. John Co., N. B.
			October, 1874.
Number of Decks..... Two and a Poop Deck.		Feet. Tenths.	
Number of Masts..... Three.		Length from fore part of stem, under the bowsprit, to the aft	
Rigged..... Ship.		side of the head of the stern post.....	
Stern..... Round.		Main breadth to outside of plank.....	
Build..... Carvel.		Depth in hold from tonnage deck to ceiling at midships.....	
Galleries..... None.		Depth in hold from upper deck to ceiling at midships, in the	
Head..... Man figure.		case of three decks and upwards.....	
Framework..... Wood.		Length of engine room, if any.....	
PARTICULARS OF ENGINES (if any.)			
No of Engines.	Description.	Whether British or Foreign made.	When made.
		Name and Address of Makers.	Diameter of Length of No. of Horses' Power (combined). Cylinders. Stroke.
<p>If Foreign built, add "and her Foreign name is"</p> <p>+ If British, insert "British," "Built at</p> <p>(naming the place and county)" on the day of</p> <p>place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of (naming the court) on the day of</p>			



## PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	1363.67	On account of space required for propelling power.....	
Closed-in spaces above the Tonnage Deck, if any		On account of spaces occupied by Seamen or Apprentices and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Poop.....	153.52	These spaces are the following, viz:	
Forecastle (2 sections).....	24.32	Forecastle.—2 sections.....	24.32
Round House Forward.....	46.38	In Round House Aft.—1 section.....	7.53
Less Galley.....	6.25		
Other closed-in spaces, if any, as follows:			
Gross Tonnage.....	1581.64		
Deductions, as per Contra.....	31.85		
Registered Tonnage.....	1549.79	Total Deductions.....	31.85

I, the undersigned, George Thomas Soley, of Liverpool, England, Merchant, declare as follows:—I am a natural-born British subject, born at Truro, in the county of Colchester, Nova Scotia, and have never taken the Oath of Allegiance to any Foreign State. The above general description of the ship is correct. Robert K. Kelley, whose Certificate of Competency is No. 88,063, is the Master of the said ship. I am entitled to be registered as Owner of Sixty 64th shares of the said ship. To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships is entitled, as owner, to any interest whatever, either legal or beneficial, in the said ship. And I make this solemn declaration conscientiously believing the same to be true.

Made and subscribed the 4th day of December, 1874, by the

above-named (George Thomas Soley, in the presence of )

(Signed),

± GEO. THOMAS, pro-Registrar, Port of Liverpool.

(Signed),

GEORGE THOS. SOLEY,

if in the presence of a registrar he will add to his signature "Registrar of the port of " If in the presence of a magistrate his description should be added, as, for example, "Justice of the peace acting in and for" (naming the county, city, borough, &c.), as the case may be.

If Foreign built, add "and her Foreign name is " in the county of " If Foreign, insert "Foreign." "Built at " If British, insert "British." "Built at " 18 " or, if Foreign, and time and place of build unknown, insert "Foreign." "Time and day of towing the place and country " on the day of " condemned by the court of (naming the court) on the day of " place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of (naming the court) on the day of "

OWNER OR TRANSFeree RESIDENT  
IN HER MAJESTY'S DOMINIONS.

- a.* Natural-born Subject, who has sworn Allegiance to a Foreign State and since to Her Majesty.
- b.* Denizen by Letters of Denization.
- c.* Persons naturalized by Act of Parliament.
- d.* Ditto ditto by Colonial Ordinance.

## DECLARATION OF OWNERSHIP BY INDIVIDUAL:

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,849	“Directo.”	27—1873 St. John, New Brunswick.

No., Date, and Port of previous Registry (if any).

**Whether British or Whether a Sailing or Steam Ship ;  
Foreign Built. — and if a Steam ship, how propelled.**

+ British.	Sailing.	Moss Glen, Kings Co.,	In the year 1873.	Wetmore & Merritt, Moss
		N. B.	Launched on the 20th	Glen, Kings County, N. B.
			June, 1873.	

Number of Decks. . . . .	One and a half Poop Deck	Feet.	Tenths.
Number of Masts. . . . .	Three.	152	7
Rigged. . . . .	Barque.		
Stern. . . . .	Round.		
Build. . . . .	Carvel.	33	3
Galleries. . . . .	None.	19	0
Head. . . . .	Billet.		
Framework. . . . .	Wood.		
	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post. . . . .		
	Main breadth to outside of plank. . . . .		
	Depth in hold from bunnage deck to ceiling at midships. . . . .		
	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards. . . . .		
	Length of engine room, if any. . . . .		

+ If Foreign built, add "and her Foreign name is " \_\_\_\_\_"  
 "Foreign." "June and place of build are unknown to the  
 court of \_\_\_\_\_" or, if a condemned ship, insert "condemned by the  
 court of \_\_\_\_\_" [naming the court] on the \_\_\_\_\_ day of \_\_\_\_\_

Framework ..... Wood.

Length of engine room, if any .....

If Foreign, and time and place of build, insert "condemned by the court of" [naming the court] on the day of .....

If Foreign, built, add "and her Foreign name is" "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of" [naming the court] on the day of .....

# REGISTRATION FORMS.

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## PARTICULARS OF ENGINES, (if any).

No. of Engines.	Description.	Whether British or When Foreign made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses Power (combined.)
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## PARTICULARS OF TONNAGE.

GROSS TONNAGE.		No. of Tons.	DEDUCTIONS ALLOWED.		No. of Tons.
Under Tonnage Deck.....		630.06	On account of space required for propelling power.....		
Closed-in spaces above the Tonnage Deck, if any.....			On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....		
Half Poop.....		35.55	These spaces are the following, viz.:—		
Forecastle.....		22.79			
Round House Forward.....		13.49			
Other closed-in spaces, if any, as follows:—					
Trunk.....					
Gross Tonnage.....		701.89	Round House Forward.....		22.79
Deductions, as per Contra.....		22.79			

## Registered Tonnage.

Total Deductions..... 22.79

I, the undersigned Joseph Freeman Merritt, of St. John, New Brunswick, merchant's clerk, born at Mossley, Maine, U. S. A., declare as follows:—I am naturalized by virtue of Acts of the Parliament of Canada passed in the 31st year of the Reign of Queen Victoria, Chap. 96, intituled "An Act respecting Aliens and Naturalization," and 34th Victoria, Chap. 22 "An Act to amend 31st Victoria Chap. 96, respecting Aliens and Naturalization," and I did on the 28th day of October, 1872, take the Oath of Allegiance to Her Majesty.

The above general description of the Ship is correct. William Stamper, whose certificate of competency is No. 35 Canada, is the Master of the said ship. I am entitled to be registered as owner of two 64th shares in the said Ship. To the best of my knowledge and belief, no person or body of persons other than what is set forth in the said Ship. And I make this solemn Declaration conscientiously believing the same to be true.

Made and subscribed the third day of June, 1873, by the above-  
 (Signed,) JOSEPH FREEMAN MERRITT.

Here insert such of the following descriptions as are applicable to the declarant: "A natural-born British subject, born at ....., in the county of ....., and since I took the Oath of Allegiance to a Foreign State, viz., I did, on the ....., day of ....., 18 ....., take the Oath of Allegiance to Her Majesty." Or, "a denizen by Letters Patent, granted the ....., day of ....., 18 ....., and I did, on the ....., day of ....., 18 ....., take the Oath of Allegiance to Her Majesty." Or, "naturalized by Act of Parliament of the ....., year of the Reign in which the Act was passed, its chapter and title," and I did, on the ....., day of ....., 18 ....., take the Oath of Allegiance to Her Majesty." Or, "naturalized by the year in which the Ordinance passed, its chapter and title," and I did, on the ....., day of ....., 18 ....., take the Oath of Allegiance to Her Majesty." If in the presence of the Registrar he will add to his signature, "Registered the part of ....., take the Oath of Allegiance to Her Majesty." added, as, for example, "Justice of the Peace acting in and for" [naming the county, city, borough, &c., as the case may be].

## Form B. (3.)

OWNER OR TRANSFeree RESIDENT  
IN HER MAJESTY'S DOMINIONS.

{ *a.* Natural-born Subject, who has sworn Allegiance to a Foreign  
   State and since to Her Majesty.  
*b.* Denizen by Letters of Denization.  
*c.* Persons naturalized by Act of Parliament.  
*d.* Ditto ditto by Colonial Ordinance.

## DECLARATION OF OWNERSHIP BY INDIVIDUAL.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
64,616	"Glendon"	55—20th July, 1872. St. John, N. B.
No., Date, and Port of previous Registry (if any).	Where Built.	Name and Address of Builders.
Whether British or Whether a Sailing or Steam Ship; and if a Steam ship, how propelled.	When Built.	
+ British.	St. John, N. B.	Francis Smith, St. John, N. B.
Steam by a Screw	In the year 1872	Launched on the 30th May, 1872.
Number of Decks. . . . . One.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the main post.	Feet. . . . . 127
Number of Masts. . . . . Three.	Main breadth to outside of plank.	Feet. . . . . 30
Rigged. . . . . Schooner.	Depth in hold from tonnage deck to ceiling at midships.	Feet. . . . . 4
Stem. . . . . Round.	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.	Feet. . . . . 9
Build. . . . . Carvel.	Length of engine room, if any.	Feet. . . . . 40
Galleries. . . . . None.		
Head. . . . . Billet.		
Framework. . . . . Wood.		

+ If Foreign built, add "and her Foreign name is " " If Foreign, and time and place of build unknown, insert "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of " [naming the court] on the day of

+ If Foreign built, add "and her Foreign name is " " If Foreign, and time and place of build unknown, insert "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of " [naming the court] on the day of

PARTICULARS OF ENGINES (if any).

No. of Engines.	Description.	Whether British or Foreign made.	Name and Address of Makers.	Diameter of Cylinder.	Length of Stroke.	No. of Horses Power (combined.)
One. . . . .	Non-condensing. . . . .	British. . . . .	Geo. Fleming & Son, St. John, 28 inches. . . . .	20. . . . .	20. . . . .	21

PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED, (32 per Cent.)	No. of Tons.
Under Tonnage Deck. . . . .	280.50	On account of space required for propelling power. . . . .	85.31
Closed-in spaces above the Tonnage Deck, if any		(On account of spaces occupied by Sails or Appliances, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew. . . . .)	
Half Poop. . . . .	5.60		
Forecastle. . . . .	21.06	These Spaces are the following, viz:—	
Round House aft. . . . .			
Round House Forward. . . . .	9.42		

Gross Tonnage. . . . .	266.58		
Deductions, as per Contra. . . . .	94.73		9.42

Registered Tonnage.

171.85	Total Deductions.	94.73
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I, the undersigned Jonathan Grant of Craigie Lee, in the County of Saint John, Province of New Brunswick, have sworn, before as follows: I am naturalized by an Ordinance of the proper Legislative Authority of New Brunswick passed in the year 1861, 24th Victoria, Chapter 14, intitled "An Act relating to the naturalization of Aliens," and I did, on the 4th day of January, 1867, take the Oath of Allegiance to Her Majesty. The above general description of the Ship is correct. James E. Sells, whose certificate of competency is No. 22, Canada, is the Master of the said Ship. I am entitled to be registered as owner of sixteen shares in the said Ship. To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British Ships is entitled as owner, to any interest in the said Ship. And I make this solemn Declaration conscientiously believing the same to be true.

Made and subscribed the third day of April, 1875, by the above-named Jonathan Grant in the presence of

Have insert such of the following descriptions as are applicable to the declarant:— "a natural-born British subject, born at in the county of , and since I took the Oath of Allegiance to a Foreign State, viz. , I did, on the day of , take the Oath of Allegiance to Her Majesty." Or, "a naturalized by Letters Patent, dated the day of , 18 , and I did, on the day of , take the Oath of Allegiance to Her Majesty." Or, "a naturalized by the Court of King's Bench, in the year of the reign in which the Act was passed, its chapter and title, "and I did, on the day of , take the Oath of Allegiance to Her Majesty." Or, "a naturalized by an Ordinance of the proper Legislative Authority of (naming the British Possession) in the year in which the Ordinance was passed, its chapter and title, "and I did, on the day of , take the Oath of Allegiance to Her Majesty." 4 If in the presence of a Registrar he will add to his signature, "Registrar of the port of " If in the presence of a magistrate his description should be added, as, for example, "Justice of the peace acting in and for " [naming the county, city, borough, &c., as the case may be.]

Form B. (4.)

Resident or Non-resident.  
Joint Owners or Transferees. } Natural-born Subjects.

## DECLARATION BY OWNERS OR TRANSFEREES ATTENDING TOGETHER.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
72 195.	"Romola."	2-1874, St. John, N. B.
No., Date, and Port of Previous Registry (if any).....		
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a steamship, how propelled.	Where Built.	When Built.
* British..... Sailing.....	Hopewell Cape, Albert In the year 1874..... Co., N. B.....	George F. Smith, of St. John, N. B. Launched on the 24th December, 1874.....
Number of Decks..... One.		Fect. Tenths.
Number of Masts..... Two.		116 5
Rigged..... Brigantine.	Length from fore part of stem, under the bowsprit to the aft side of the Head of the stern post.....	28 9
Stern..... Square.	Main breadth to outside of plank.....	12 0
Build..... Carvel.	Depth in hold from tonnage deck to ceiling at midships.....	
Galleries..... None.	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.....	
Feed..... Billet.	Length of engine room, if any.....	
Framework..... Wood.		

## PARTICULARS OF ENGINES (if any.)

No. of Engines.	Description.	Whether British or When made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses' Power (combined.)

If Foreign built, add "and her Foreign name is....." If Foreign, and time and place of build unknown, insert "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "Condemned in the court of [naming the court] on the..... day of....."

If Foreign built, add "and her Foreign name is" If Foreign, and time and place of build unknown, insert "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "Condemned in the court of [name the court] on the day of"

# PARTICULARS OF TONNAGE.

GROSS TONNAGE.		No. of Tons.	DEDUCTIONS ALLOWED.		No. of Tons.
Under Tonnage Deck.....		247.20	On account of space required for propelling power.		
Closed-in spaces above the Tonnage Deck, if any			On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....		
Space or spaces between Decks.....		32.09	These spaces are the following, viz.:		12.13
Poop.....			Round House Forward.....		
Forecastle.....					
Round House.....		18.93			
Other closed-in spaces, if any, as follows:					
Round House Forward.....		12.13			
Gross Tonnage.....		310.35			
Deductions, as per Contra.....		12.13			
Registered Tonnage.....		298.22	Total Deductions.....		12.13

## DECLARATIONS OF DECLARANTS.

No. of Shares.	Names.	Place of Residence.	Occupation.	Place of Birth.
Thirty-two. . . 32	George Frederick Smith	St. John, N. B.	Merchant.....	St. John, N. B.
Sixteen. . . 16	John Douglas.	Portland, St. John, N. B.	Ship Carpenter	Portland, St. John, N. B.
Sixteen. . . 16—64	Thomas Smith Adams.	St. John, N. B.	Merchant's Clerk.....	St. John, N. B.

First.—Each of us, the several persons above mentioned, and whose names are hereunto subscribed, declare as follows:—I am a natural-born British subject, my name, description, and place of birth as above given are true. I have never taken the Oath of Allegiance to any Foreign State. The above general description of the ship is correct. Hiram Edgett, whose Certificate of Service, Canada, is No. 234, is the Master of the said ship.

Secondly.—We, the said several persons above mentioned, respectively declare as follows:—We are entitled to be registered as owners of the respective number of shares in the said ship-set opposite our names in the margin hereof. To the best of our knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British Ships is entitled, as owner, to any interest whatever, either legal or beneficial, in the said ship; and we, so far as relates to ourselves and each of us, make this solemn declaration conscientiously believing the same to be true.

Made and subscribed the 7th day of January, 1875, by the above named George Frederick Smith, John Douglas, and Thomas Smith Adams, in the presence of

(Signed),  
GEORGE F. SMITH,  
T. DOUGLAS,  
THOMAS S. ADAMS.

† Register Port of Saint John, New Brunswick

† If in the presence of a registrar he will add to his signature "Registrar of the port of" If in the presence of a magistrate his description should be added, as, for example, "Justice of the peace acting in and for" [name the county, city, borough, &c., as the case may be].

## FORM B. (5.)

Resident or Non-resident } Natural-born Subject.  
 Joint Owners or Transferees }

## DECLARATION BY JOINT OWNERS OR TRANSFEREES ATTENDING TOGETHER.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,986	"Alexandrov"	48. 1874, St. John, N. B.
No., Date, and Port of previous Registry (if any).		
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a steam ship, how propelled.	Where Built.	When Built.
* British. Sailing.		
	Rothsay, Kings County, N. B.	Richard Titus, Rothsay, Kings County, N. B.
		Launched on the 12th September, 1874
Number of Decks. Two and a half Poop Deck.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post.	Fect. Tenth.
Number of Masts. Three.	Main breadth to outside of plank.	195 5
Rigged. Ship.	Depth in hold from tonnage deck to ceiling at midships.	37 6
Stern. Round.	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.	23 5
Build. Carvel.	Length of engine room, if any.	
Galleries. None.		
Head. Woman.		
Framework. Wood.		
PARTICULARS OF ENGINES (if any.)		
No of Engines.	Whether British or When made.	Diameter of Length of No. of Horses' Power (combined).
Description.	Foreign made.	Stroke. Cylinders.
If Foreign built, add name and her Foreign name is " " If Foreign, and time and place of built unknown, insert "Foreign." "Time and place of built are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of (name of court) on the day of		



If Foreign built, add "and her Foreign name is" If Foreign, and time and place of built unknown, insert "Foreign," Time and place of built are unknown to the declarant, or, if a condemned ship, insert "condemned by the court of (naming the court) on the day of

PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	1165.78	On account of space required for propelling power.....	
Closed-in spaces above the Tonnage Deck, if any		On account of spaces occupied by Seamen or Apprentices and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Space or spaces between Decks.....	51.79	These spaces are the following, viz:.....	
Round House aft.....		3 Sections in Round House Forward.....	19.47
Forecastle.....			
Round House Forward less Galley.....	27.06		
Other closed-in spaces, if any, as follows:.....			
Lazarette and Wings.....	29.87		
House abait Mainmast.....	18.51		
Gross Tonnage.....	1263.01		
Deductions, as per Contra.....	19.47		

DESCRIPTIONS OF DECLARANTS.			Total Deductions.....	19.47
Name.	Place of Residence.	Occupation.	Place of Birth.	
Gilbert Martin Steeves.....	St. John, N. B.	Merchant.....	Hillsborough, Albert Co., N. B.	
John Fisher.....	St. John, N. B.	Shipbuilder.....	St. John, N. B.	
James Thomas Steeves.....	St. John, N. B.	Doctor of Medicine.....	Hillsborough, Albert Co., N. B.	

First. Each of us the several persons above mentioned, and whose names are hereto subscribed, declare as follows: That a natural-born British subject, my name, description, and place of birth as above given are true. I have never taken the Oath of Allegiance to any Foreign State. The above general description of the ship is correct. Daniel Pinfold Walcotts, whose Certificate of Competency is No. 91,636 is the Master of the said ship. Secondly. We, the said several persons above mentioned, respectively declare as follows: We are entitled to be registered as Joint Owners of Thirty-two fourth shares in the said ship. To the best of our knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships is entitled, as owner, to any interest whatever, either legal or beneficial, in the said ship; and we, so far as relates to ourselves and each of us, make this solemn Declaration conscientiously believing the same to be true. Made and subscribed the fifth day of October, 1874, by the above named Gilbert Martin Steeves, John Fisher and James Thomas Steeves, in the presence of

GILBERT M. STEEVES,  
JOHN FISHER,  
JAMES T. STEEVES.

† Registrar of the Port of St. John, N. B.

If in the presence of a registrar he will add to his signature "Registrar of the port of" should be added, as, for example, "Justice of the peace acting for and for" (naming the county, city, borough, &c., as the case may be.)

## Form B (6)

Joint Owner or Transferee. } Natural-born Subject.  
**DECLARATION BY A JOINT OWNER OR TRANSFEREE.**

Official Number of Ship.	Name of Ship.	No., Date and Port of Registry.
66,983	"Hindustan."	45-1874, St. John, N. B.
No., Date, and Port of Previous Registry (if any).	Where Built.	Name and Address of Builders.
Whether British or Foreign Built. and if a Steam ship, how propelled.		
* British .....	St. John, N. B.	In the year 1874..... Launched on the 29th Nevins, Fraser & Co., St. John, N. B.
* Sailing .....		
Number of Decks..... Two and a half poop Deck.	Length from fore part of stem, under the bowsprit, to the aft	Feet. Tenth.
Number of Masts..... Three.	side of the head of the stern post.....	217 9
Rigged..... Ship.	Main breadth to outside of plank.....	39 3
Stern..... Round.	Depth in hold from tonnage deck to ceiling at midship.....	24 1
Build..... Carvel.	Depth in hold from upper deck to ceiling at midship, in the case of three decks and upwards.....	
Galleries..... None.	Length of engine room (if any).....	
Head..... Woman Bust.		
Framework..... Wood.		

## PARTICULARS OF ENGINES (if any.)

No. of Engines.	Description.	Whether British or Foreign made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses Combined.
-----------------	--------------	----------------------------------	-----------------------------	------------------------	-------------------	-------------------------

If Foreign built, add "and her Foreign name is....." If Foreign, and time and place of build unknown, insert "Foreign," Time and place of build are unknown to the declarant. Or, if a condemned ship, insert "Condemned by the court of" (naming the court) "on the day of"

[illegible]

# THE JOURNAL OF THE

— 1916 — (A.B.B.).

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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## PARTICLE-TUNING

GROSS TONNAGE.		No. of Tons.	DECK SPACES ALLOWED.	No. of Tons.
Under Tonnage Deck	.....	588.40	On board, if space required for propelling power	.....
Closed-in spaces above the Tonnage Deck	.....	.....	On board, if space required for propelling power	.....
Space or spaces between decks	.....	.....	On board, if space required for propelling power	.....
Poop	.....	.....	On board, if space required for propelling power	.....
Forecastle	.....	.....	On board, if space required for propelling power	.....
Round House etc	.....	25.40	On board, if space required for propelling power	.....
Other closed-in spaces, if any, as follows:	.....	.....	On board, if space required for propelling power	.....
Round House, Foremast Mast-carry	.....	17.08	On board, if space required for propelling power	.....
Mast-carry	.....	.....	On board, if space required for propelling power	.....
Lazarette and Wings	.....	14.95	On board, if space required for propelling power	.....
			On board, if space required for propelling power	.....

100

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Form C. (See Section 39.)  
DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
45,965	"Sand."	39 in 1872 St. John, N. B.
No., Date, and Port of previous Registry (if any) 45 in 1870, London.	Where Built.	Name and Address of Builders.
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a Steam ship, how propelled.	Where Built.	Where Built.
British..... Steam by a Screw.....	Sunderland, in the In the year 1870..... W. Pile & Co. Sunderland.	
	county of Durham. Launched on the 6th October, 1870.....	
Number of Decks..... One.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post.....	Feet. Tenth.
Number of Masts..... Two.	Main breadth to outside of plank.....	198 7
Rigged..... Sloop.	Depth in hold from keelson deck to ceiling of hold.....	27 3
Stem..... Round.	Depth in hold from upper deck to ceiling at midships in the case of three decks and upwards.....	15 3
Build..... (Baker.)	Length of engine room, if any.....	20 1
Galleries..... None.		
Head..... None.		
Framework..... Iron.		
	PARTICULARS OF ENGINES (if any).	
No. of Engines.	Whether British or When made.	Diameter, of Length, of No. of Horses' Power (combined.)
Two..... Compound.....	British..... 1870 G. Wilson & Son, Gateshead.....	Stroke. 48 & 28 inches 31 inches.....
		95
If Foreign built, add "and her Foreign name is....."		
county of.....	If Foreign, insert "Foreign." Built at.....	If British, insert "British." Built at.....
18.....	Or, if Foreign, and time and place of build unknown to the declarant, insert "Foreign." Time and place of build are.....	Time and place of build are.....
unknown to the declarant, or, if a condemned ship, insert "condemned by the court of" [naming the court] on the day of.....		

Gross Tonnage.	No. of Tons.	Deductions Allowed, (32 per Cent.)	No. of Tons.
Under Tonnage Deck.	620.11	On account of space required for propelling power.	48.37
Closed in spaces above the Tonnage Deck, if any		On account of spaces occupied by Steam or Appliances, and appropriated to their use, and kept free from coats or Stores of every kind, not being the personal property of the Crew.	
Space or spaces between Decks.		These Spaces are the following, viz.:	
Pop.	160.81	Upper Forecastle.	4.58
Forecastle.		Upper Forecastle.	4.39
Round House	26.44	Upper Forecastle.	6.29
Other closed in spaces, if any, as follows:		Berth in Poop.	7.44
		Berth in Poop.	1.82
Gross Tonnage.	807.36		
Deductions, as per Criteria.	283.08	Total Deductions.	283.08
Registered Tonnage.	524.28		

[illegible]

The above general declaration to the Ship is correct. James Bathford, second mate of competence is a British subject in the Master of the said Ship. The said Company is entitled to be registered as owner of each share in the said ship. To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are in the Merchant Shipping Act 1894 entitled to the ownership of British Ships is entitled, as owner, to any interest what, or other legal or beneficial in the said ship. And I make this solemn declaration conscientiously believing the same to be true.

Made and subscribed the ninth day of September, 1874, by the above-named **BAYARD HENDERSON SMITH**, in the presence of **J. S. K. RUELL, Real-Estate**, Port of St. John, N. B. (Signed)

(singl.)

(2)

[illegible]





# REGISTRATION FORMS.

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## PARTICULARS OF TONNAGE.

No. of Engines. Description.	Worked before or after the 1st of January, 1862.	Machine, Name and Address of Makers.	Registered Tonnage.	Net Tonnage.	Number of Persons Allowed.	Number of Tons.
Under Tonnage Deck.						
Special spaces above the Tonnage Deck, viz.:						
Special spaces below the Tonnage Deck, viz.:						
Round House Fore and Aft.			54.22			
Lazarette and Wing.			25.00			
Round House, &c.			49.75			
Other closed in spaces, viz.:						
House on after Mast.			4.77			
Gross Tonnage.			134.74	134.74		
Net Tonnage.			134.74	134.74		
Registered Tonnage.			134.74	134.74		
Number of Persons Allowed.						
Number of Tons.						

Notice is hereby given that the above particulars have been entered in the Register of Shipping at the Port of London, and that the same are open to the inspection of the Public.

Witness my hand and the Seal of the Registrar of Shipping at the Port of London, this 1st day of January, 1862.

James Hamilton, Registrar of Shipping at the Port of London.

Printed at the Registrar of Shipping at the Port of London.

THE REGISTRAR OF SHIPPING.

NOTICE. A Certificate of Registry is now being issued to the owners of all vessels of the British flag, and it is hereby notified that the same are open to the inspection of the Public.

In case of any change of ownership it is important that the particulars of the vessel should be registered according to law.

Should the vessel be lost, sold to Foreigners, or be broken up, notice thereof, together with the Certificate of Registry, if in existence, should immediately be given to the Registrar of Shipping at the Port of London, under a penalty of £100 for default.

For further information apply to the Registrar of Shipping at any Custom House.

## Form E. (See Section 55.)

## BILL OF SALE.

Official Number of Ship 66,453.

Name of Ship "Prince Frederick."

Port Number and Year of Registry. } 13 in 1874. Part of Registry. British or Foreign. How propelled. Where built. St. John, N. B. When built. In the  
 } 13 in 1874. St. John, N. B. built. British. By Sails. John, N. B. on the 2nd May, 1874.

Number of Decks.....One, Beam for 2nd part.  
 Is laid, and a Half Poop.  
 Number of Masts.....Three.  
 Rigged.....Ship.  
 Stern.....Round.  
 Build.....Carvel.  
 Galleries.....None.  
 Head.....Man Figure.  
 Framework.....Wood.

Feet. Tenth.  
 220 6  
 30 1  
 24 0

Length from fore part of stem, under the bowsprit, to the aft  
 side of the head of the stern post.....  
 Main breadth to outside of plank.....  
 Depth in hold from tonnage deck to ceiling at midships.....  
 Depth in hold from upper deck to ceiling at midships, in the  
 case of three decks and upwards.....  
 Length of engine room, if any.....

## PARTICULARS OF ENGINES (if any.)

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and Address of Makers.	Diameter of Cylinders, Stroke.	No. of Horses' Power (combined).
1						



## Form G (See Section 56.)

## DECLARATION OF OWNERSHIP OR INTEREST ON TRANSMISSION BY BANKRUPTCY.

Official Number of Ship. 65,920	Name of Ship. "Moss Glen."	No., Date, and Port of Registry. 62-1873, St. John, N. B.
No., Date, and Port of Previous Registry (if any).....		
Whether British or Whether a Sailing or Steam Ship: Foreign Built, and its Steamship, how propelled.		
+ British.....	Where Built. Grand Bay, Lancaster Co. of St. John, N. B.	When Built. In the year 1873, launched on the 16th September, 1873.
Name and Address of Builders. Henezer Sutton, Grand Bay, Lancaster, Co. of St. John, N. B.		
Number of Decks..... One.	Length from fore part of stem, under the bowsprit to the aft side of the Head of the stern post..... 109	Feet. Tenth.
Number of Masts..... Three.	Main breadth to outside of plank..... 27	6
Flagged..... Schooner.	Depth from tonnage deck to ceiling at masts..... 8	3
Stem..... Elliptic.	Depth from upper deck to ceiling at masts in the case of masts and upwards.....	9
Build..... Carvel.	Length of engine room, if any.....	
Galleries..... None.		
Head..... Billet.		
Framework..... Wood.		

+ If Foreign built, add "and her Foreign name is....."  
 If British, insert "British," "Built at..... in the County of....."  
 (naming the place and country) "on the..... day of....."  
 unknown, insert "Foreign," "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of..... (naming the court) on the..... day of....."

# REGISTRATION FORMS.

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+ If Foreign built, add "and her Foreign name is" If British, insert "British." "Built at" (meaning the place and country) "on the" unknown, insert "Foreign." "Time and place of build" are unknown to the declarant, or, if a condemned ship, insert "condemned by the court of" (naming the court) on the day of

## PARTICULARS OF ENGINES, (if any).

No. of Engines.	Description.	Whether British or When Foreign made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses' Power (estimated).
-----------------	--------------	---------------------------------------	-----------------------------	------------------------	-------------------	-----------------------------------

## PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	167.28	On account of space required for propelling power.....	
Closed in spaces above the Tonnage Deck, if any.....		On account of spaces occupied by Seamen or Apprentices and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Half Poop.....	16.34	These spaces are the following, viz:	
Forecastle.....		Round House Forward.....	2.52
Round House Forward.....	2.52		
Other closed-in spaces, if any, as follows:			
Trunk on Half Poop.....	10.17		
Gross Tonnage.....	196.31		
Deductions, as per Contra.....	2.52		

Registered Tonnage..... 193.79 Total Deductions..... 2.52  
(a) I, the undersigned, Gilbert Radcliff Pugsley, of St. John, New Brunswick, Barrister at Law, born at Sussex, Kings County, New Brunswick, declare as follows:—The person Thomas Jones appearing by the Register Book to be the (b) Owner of Sixty-four 64th shares in the Ship above described was on the nineteenth day of February, one thousand eight hundred and seventy-four, duly (c) adjudged a bankrupt and (d) I, Gilbert Radcliff Pugsley was on the eleventh day of March, 1874, appointed (e) creditors' assignee of the estate and effects of the said Thomas Jones and (f) I am entitled to be registered as (h) Owner of the said sixty-four shares of the said Ship. And (a) I make this solemn Declaration conscientiously believing the same to be true. Made and subscribed by the above-named Gilbert Radcliff Pugsley, )  
this 10th day of April, 1874, in the presence of

(Signed,) GILBERT R. PUGSLEY.

Registrar Port of St. John, N. B.

(a) "I" or "we," (b) "Owner" or "Mortgagee," (c) "Adjudged a bankrupt," (d) "Official" or "Creditors," or "Official and Creditors," (e) "I am" or "we are," (f) "Owner" or "Mortgagee," (g) "Official" or "Creditors," (h) "Official and Creditors." If in the presence of a registrar he will add to his signature "Registrar of the port of" should be added, as, for example, "Justice of the peace acting in and for" (naming the county, city, borough, &c., as the case may be.)

FORM H. (1) (See Section 58.)

DECLARATION BY REPRESENTATIVE OF A DECEASED OWNER TAKING BY TRANSMISSION.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,923	Morning Dew	65 11th Oct. 1873. St. John, N. B.
No., Date, and Port of previous Registry (if any).	Whether British or Whether a Sailing or Steam Ship.	When Built.
	Foreign Built, and if so, in what ship, how propelled.	Name and Address of Builder.
+ British	Sailing	In the year 1873, Isaac J. Carter, Office J.R., Carleton, St. John, N. B. Entered on the 1st Oct., 1873.
Number of Decks, One.	Whether British or Whether a Sailing or Steam Ship.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the mainmast.
Number of Masts, Three.	Whether British or Whether a Sailing or Steam Ship.	Main breadth to outside of plank.
Rigged, Sloop.	Whether British or Whether a Sailing or Steam Ship.	Depth in hold from tonnage deck to ceiling at mid-ships.
Stem, Sloop.	Whether British or Whether a Sailing or Steam Ship.	Depth in hold from upper deck to ceiling at mid-ships, in the case of three decks and upwards.
Build, Sloop.	Whether British or Whether a Sailing or Steam Ship.	Length of engine room, if any.
Galleys, Sloop.	Whether British or Whether a Sailing or Steam Ship.	
Head, Sloop.	Whether British or Whether a Sailing or Steam Ship.	
Framework, Sloop.	Whether British or Whether a Sailing or Steam Ship.	
No. of Engines, Description.	Whether British or Whether a Sailing or Steam Ship.	
	Foreign made.	
	Name and Address of Makers.	Diameter of Length of No. of Horse Power Stroke. (continued.)

+ If Foreign built, add name and her Foreign name is county of . If Foreign, insert "Foreign." Built at . If British, insert "British." Built at . in the day of 18 . On, if Foreign, and time and place of build unknown, insert "Foreign." Time and place of build are unknown to the declarant, or if a condemned ship, insert "condemned by the court of . having the court on the day of ."

Items Taken.	No. of Tons.	Deductions Allowed.	No. of Tons.
Unlar Tonnage Paid.	294.65	On account of space required for projecting bows,	
80 of in stores at 15, the Tonnage Paid, many		the account of space occupied by scum or App-	
Species of spaces between Decks.		prentis, and appropriated to their use, and kept	
Proportion . . . . .		free from tools in stores of every kind, not being	
Forecastle . . . . .		the personal property of the Crew.	
Round House Forward of the Deck . . . . .	5.70	These Spaces are the following, viz.:	
Other closed-in spaces, if any, as follows:			
Round House Aft. . . . .	25.72	In Round House Forward . . . . .	13.74
Gross Tonnage . . . . .	326.04		
Deductions, as per Custom . . . . .	13.74		
Registered Tonnage . . . . .	312.30	Total Tonnage . . . . .	13.74

[illegible]

To the best of our knowledge, a detailed study on possession of body fluids of persons in care by the Member States is missing. A study of this kind is a topic of the 'Shores' entitled, as O'Brien et al. (2006) put it, 'Shores of the body' (p. 10). And I think that the 'Shores' is a very apt metaphor for the study of body fluids in care, for the same reason.

Very respectfully submitted,  
 A. C. CROFT and W. B. HARRIS, for the County  
 Register of Saint John, New Brunswick.  
 (Signed),  
 WILLIAM DEWEAN.

[illegible]

## FORM H. (2.) See Section 58.

## DECLARATION ON TRANSMISSION BY MARRIAGE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,969.	"Landseer."	29 30th July, 1874—St. John, N. B.
No., Date, and Port of previous Registry (if any).	Where Built.	Name and Address of Builders.
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a steam ship, how propelled.	St. Martins, N. B.	In the year 1874. .... John D. Bradshaw, St. John, N. B.
* British.	Sailing.	In the year 1874. .... John D. Bradshaw, St. John, N. B.
Number of Decks. .... One and a half poop deck.	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post. ....	Fect. Tenth.
Number of Masts. .... Three.	Main breadth to outside of plank. ....	148 2
Rigged. .... Barkentine.	Depth in hold from tonnage deck to ceiling at midship. ....	30 6
Stern. .... Round.	Depth in hold from upper deck to ceiling at midship, in the case of three decks and upwards. ....	13
Build. .... Carvel.	Length of engine room (if any). ....	
Galleries. .... None.	PARTICULARS OF ENGINES (if any.)	
Head. .... Billet.	Whether British or When made. Name and Address of Makers.	Diameter of Length of No. of Horses Power Cylinders. Stroke. Combined.
Framework. .... Wood.		
No. of Engines. Description.		
If Foreign built, add "and her Foreign name is _____ in the county of _____ insert "Foreign." "Built at _____ on the _____ day of _____ unknown, insert "Foreign." "Time and place of build are unknown to the declarant." Or, if a condemned ship, insert "Condemned by the court of _____ (naming the court)" "on the _____ day of _____"		



If Foreign built add "and her Foreign name is" If British, insert "British." If built at IS "Or, if Foreign, add time and place of build insert "Foreign." "Built at day of" Or, if a condemned ship, insert "Condemned by the court of" (naming the court) "on the day of"

# PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	365.88	On account of space required for propelling power.....	
Closed-in spaces above the Tonnage Deck, if any		On account of space occupied by Scauzen or Appliances, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Space or spaces between Decks.....	55.84	These spaces are the following, viz:—	
Forecastle.....	22.58	Part of Round House Forward.....	17.92
Round House Forward.....			
Other closed-in spaces, if any, as follows:—			
Half Poop.....	12.81		
Lazarette.....	7.50		
Gross Tonnage.....	444.61		
Deductions, as per Contract.....	17.92		
Registered Tonnage.....	426.69	Total Deductions.....	17.92

I, the undersigned, Sylvester Wood, of Clifton, in the County of Kings, Province New Brunswick, Farmer, declare as follows:—I am a natural-born subject of Her Majesty, born at Salisbury, in the County of Westmoreland, New Brunswick, and have never taken the Oath of Allegiance to any Foreign State. I declare that on the Seventeenth day of December, one thousand eight hundred and seventy-four, I intermarried with, and am now the husband of Rebecca Maria Stone, the person appearing on the Register Book to be the Owner of Four 64th shares in the said Ship, and I declare that on such marriage the interest of the said Rebecca Maria Stone, became by law vested in me, and that I am entitled to be registered as Owner of the said shares in place of the said Rebecca Maria Stone.

To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1874, qualified to be Owners of British Ships is entitled, as Owner, to any interest whatever, or as agent or beneficial, in the said Ship. And I make this solemn Declaration conscientiously believing the same to be true.

Made and subscribed the 31st day of December, 1874, by the above-  
 named Sylvester Wood, in the presence of  
 \* Registrar Port of St. John, New Brunswick.  
 (Signed,) SYLVESTER WOOD.

It is the presence of a magistrate he will add to his signature. "Registrar of the Port of" If in the presence of a magistrate his description should be added, as, for example, "Justice of the peace acting in and for" (naming the county, city, borough, &c., as the case may be).

# King's College London

# VOLUME TO THE DEPT. OF AGRIC.

Port Napier, (63 and 64, P. of Registry, British of Foreign and Colonial Year of Registry.)  
 St. John, N. B. built, British.  
 Where built, Wine, etc. In the  
 Rocker, West Year 15th, launched  
 in 1840, N.B. on the 27th Septem-  
 ber, 1840.

Figure 1 is a schematic representation of the experimental design. It is divided into two main sections: 'Pretest' and 'Main Experiment'. The 'Pretest' section shows a flow from 'Pretest' to 'Main Experiment'. The 'Main Experiment' section shows a flow from 'Main Experiment' to 'Posttest'. The 'Main Experiment' section includes a 'Pretest' and a 'Main Experiment'.

# Journal of the American Medical Association

Year	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100																			
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No. of	Whether In Use or When	Maker or Manufacturer of No. 2 Hercules Power
Engines.	Description.	Engines Made Under Name and Address of Maker or Manufacturer. (See page continuing.)
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Figure 1 consists of two Western blot panels, A and B. Panel A shows p38 protein levels in cells treated with vehicle (Veh), IL-1 (1 ng/ml), or IL-1 (1 ng/ml) + SB203580 (10 μM). Panel B shows p38 protein levels in cells treated with vehicle (Veh), IL-1 (1 ng/ml), or IL-1 (1 ng/ml) + SB203580 (10 μM). Both panels show bands for p38 and a loading control (actin). Molecular weight markers are indicated on the left.

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Detailed description of Figure 1: This is a Northern blot image. The top section shows 18S rRNA bands, which are relatively uniform in intensity across all lanes, serving as a loading control. The bottom section shows GAPDH mRNA bands, which are significantly more intense in the Liver and Kidney lanes compared to the Heart, Muscle, Adipose, and Brain lanes. Molecular weight markers are indicated on the left side of the blot, with values ranging from 1.9 to 2.8 kb.

Figure 1. Schematic representation of the experimental design. The subjects were divided into two groups: the control group (CG) and the experimental group (EG). The CG was divided into two subgroups: the control group (CG) and the control group (CG). The EG was divided into two subgroups: the experimental group (EG) and the experimental group (EG). The subjects were divided into two groups: the control group (CG) and the experimental group (EG). The CG was divided into two subgroups: the control group (CG) and the control group (CG). The EG was divided into two subgroups: the experimental group (EG) and the experimental group (EG).

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(a) I, the undersigned, James Roy McGregor, of Canim, Queens County, New Brunswick, Farmer, in consideration of Two thousand five hundred dollars, this day lent to (do me by Moses Peters, of Alma, Albert County, New Brunswick, Mariner, do hereby for (e) myself and (d) my heirs, covenant with the said Moses Peters, firstly: That (a) I, or (d) my heirs, executors, or administrators, will pay to the said Moses Peters the said sum of Two thousand five hundred dollars together with interest thereon, at the rate of six per cent. per annum on the Third day of January next; and secondly, that if the said principal sum is not paid on the said day (a) I, or (d) my heirs, executors, or administrators, will, during such time as the same or any part thereof remain unpaid, pay to the said Moses Peters, interest on the whole or such part thereof as may for the time being remain unpaid, at the rate of six per cent. per annum, by equal half-yearly payments on the third day of July, and third day of January, in every year; and for better securing to the said Moses Peters, the repayment in manner aforesaid of the said principal sum and interest (a) I hereby Mortgage to the said Moses Peters, sixty-four sixths shares, of which (e) I am the Owner in the ship above particularly described, and in her boats, guns, ammunition, small arms, and appurtenances. (a) I declare that this mortgage is made on condition that the power of sale which by the Merchant Shipping Act, 1854, is vested in the said Moses Peters, shall not be exercised until the said (f) third day of January, 1876. Lastly, (a) I for (e) myself and (d) my heirs, covenant with the said Moses Peters, and his assigns that (a) I have power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances (g). In witness whereof (a) I have hereto subscribed (a) my name and affixed (a) my seal, this third day of January, one thousand eight hundred and seventy-five.

Executed by the undersigned James Roy McGregor, in the presence of

JAMES ALLAN MANNING, St. John, N. B., Clerk.

(Signed), JAMES R. MCGREGOR.

[L.S.]

N. B. In case of Transfer it may be made by Indorsement on the back of the Mortgage in the following form:

TRANSFER OF MORTGAGE.

Know all the world, that in consideration of Two thousand five hundred and twenty-five dollars, this day paid to (do me by Donald Macrae, of St. John, New Brunswick, Ship Broker, hereby transfer, hereby Mortgage to the said (e) myself and (d) my heirs, executors, or administrators, the said (f) third day of January, one thousand eight hundred and seventy-five, the said (g) shares, of which (e) I am the Owner in the ship above particularly described, and in her boats, guns, ammunition, small arms, and appurtenances. (a) I declare that this mortgage is made on condition that the power of sale which by the Merchant Shipping Act, 1854, is vested in the said Moses Peters, shall not be exercised until the said (f) third day of January, 1876. Lastly, (a) I for (e) myself and (d) my heirs, covenant with the said Moses Peters, and his assigns that (a) I have power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances (g). In witness whereof (a) I have hereto subscribed (a) my name and affixed (a) my seal, this third day of January, one thousand eight hundred and seventy-five.

Executed by the above-named Moses Peters, in the presence of

JAMES THOMPSON, St. John, N. B., Merchant.

[L.S.]

N. B. In case a Mortgage is paid off, the following Memorandum of its Discharge may be used:

Received the sum of \$2,500, in discharge of the within written security. Dated at St. John, N. B., this 15th day of April, 1875. Witnesses, John Anderson, of St. John, N. B., Clerk. (a) I, (b) "Me," or "us," (c) "Myself," or "ourselves," (d) "Me," or "them," (e) "I am," or "we are," (f) Insert the day fixed for payment of principal as above. (g) If any prior incumbrance add, "save as appears by the Registry of the said Ship." (a) "I" or "we," (b) "Me" or "us," (c) "Him" or "them," (d) "I" or "we," (e) "My" or "our."

DOSSALD MACRAE. [L.S.]

## FORM I. (2.) See Section 66.

## MORTGAGE (to secure Account Current, &amp;c.)

Official Number of Ship 66,974.		Name of Ship "Imperial."	
Port Number and Year of Registry. ) 35 in 1874.	Port of Registry. British or Foreign St. John, N. B.	How propelled. By Sails.	Where built. When built. In the Tynemouth, St. year 1874. Launched on the 30th July, 1874.
<p>Number of Decks. One beam for a 2d &amp; half poop</p> <p>Number of Masts. Three.</p> <p>Rigged. Barque.</p> <p>Stern. Round.</p> <p>Build. Carvel.</p> <p>Galleries. None.</p> <p>Head. Woman figure.</p> <p>Framework. Wood.</p>			
<p>Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post. )</p> <p>Main breadth to outside of plank. )</p> <p>Depth in hold from tonnage deck to ceiling at midships. )</p> <p>Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards. )</p> <p>Length of engine room, if any. )</p>			
<p>Feet. Tenth.</p> <p>173 0</p> <p>34 4</p> <p>21 9</p>			
PARTICULARS OF ENGINES (if any.)			
No of Engines.	Description.	Whether British or Foreign made.	Name and Address of Makers.
Diameter of Length of No. of Horses Power Cylinders. Stroke. (combined).			
GROSS TONNAGE.			
Under Tonnage Decks.		No. of Tons.	DEDUCTIONS ALLOWED.
Closed-in spaces above the Tonnage Deck, if any		858.59	On account of space required for propelling power.
Space or spaces between Decks.			On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods and Stores of every kind, not being the personal property of the Crew.
Forecastle.		13.46	These spaces are the following, viz.:
Round House Aft.		26.96	
Other closed-in spaces, if any, as follows:			
Round House Forward.		32.06	
Gross Tonnage.		931.07	
Deductions as per Contra.		31.98	
Registered Tonnage.		899.09	
			Round House Forward, (2 sections).
			Total Deductions.
			31.98
			31.98



FORM L (See Section 79.)  
DECLARATION BY REPRESENTATIVE OF A DECEASED OWNER TAKING BY TRANSMISSION.

Official Number of Ship.		Name of Ship.		No., Date, and Port of Registry.	
665,993		"Honeywood"		55-27th Oct. 1874. St. John, N. B.	
No., Date, and Port of previous Registry (if any).					
Whether British or Whether a Sailing or Steam Ship: Foreign Built. and if a Steam ship, how propelled.		Where Built.		When Built.	
+ British.		Sailing.		In the year 1874. Messrs. Cruickshank & Launched on the 10th Sittfield, St. John, N. B. October, 1874.	
Number of Decks. Two and a half poop.		Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post.		Feet. Tenths.	
Number of Masts. Three.		Main breadth to outside of plank.		180 0	
Rigged. Barque.		Depth in hold from tonnage deck to ceiling at midships.		36 5	
Stern. Round.		Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.		22 8½	
Build. Carvel.		Length of engine room, if any.			
Galleries. None.					
Head. Man figure.					
Framework. Wood.					
PARTICULARS OF ENGINES (if any.)					
No. of Engines.	Description.	Whether British or When made.	Name and Address of Makers.	Diameter of Length of No. of Horses' Power Stroke. Cylinders. (continued.)	

\* If Foreign built, add "and her Foreign name is" + If British, insert "British." "Built at" in the county of "If Foreign, insert "Foreign." Built at [naming the place and country] "on the day of 18 " Or, if Foreign, and time and place of build unknown, insert "Foreign." "Time and place of build are unknown to the declarant," or, if a condemned ship, insert "condemned by the court of [naming the court] on the day of

\* If Foreign built, add "and her Foreign name is" + If British, insert "British." Built at in the  
 county of " If Foreign, insert "Foreign." Built at day of  
 18 " Or, if Foreign, and time and place of build unknown, insert "Foreign." "the and place of build are  
 unknown to the declarant," or, if a condemned ship, insert "condemned by the court of" [naming the court] on the  
 day of

# PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	1031.27	On account of space required for propelling power.....	
Closed-in spaces above the Tonnage Deck, if any		On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Lazarette and Wings.....	29.98	These Spaces are the following, viz.:—	
Space or spaces between Decks.....	26.95		
Half Poop.....			
Forecastle.....			
Round House Aft.....	42.86		
Other closed-in spaces, if any, as follows:—			
Round House Forward.....	34.65	Round House Forward and part of Round House aft.....	40.93
Gross Tonnage.....	1165.71		
Deductions, as per Contra.....	40.93		
Registered Tonnage.....	1124.78	Total Deductions.....	40.93

(a) We, the undersigned, (b) Alex. Thompson, of St. John, New Brunswick, Shipowner, born at Liverpool, England, and William McIntosh, of Frederickton, N. B., Limited Merchant, born at Glasgow, Scotland, declare as follows:— (c) we are natural-born British subjects and have never taken the oath of Allegiance to any Foreign State. (d) We declare that † Cornelius O'Regan, the person appearing by the Register Book to be the (d) mortgagee of thirty-two shares in the Ship above described, died at St. Patrick, in the County of Charlotte, N. B., (e) on the 2nd day of December, 1874, intestate, and that letters of administration of his estate and effects were on the 24th day of December, 1874, duly granted to us by the Court of Probate for the County of Charlotte, N. B., and we are entitled to be registered as joint mortgagees of thirty-two shares of the said Ship.

To the best of our knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be Owners of British Ships is entitled, as Owner, to any interest whatever, either legal or beneficial, in the said Ship. And (a) we make this solemn Declaration conscientiously believing the same to be true.

Made and subscribed the 6th day of January, 1875, by the (Signed) ALEXANDER THOMPSON, above named Alex. Thompson, and William McIntosh, the persons († Register Port of Saint John, New Brunswick.

(a) "I" or "we." (b) Here, insert name, description, and place of birth of declarant. (c) Here state "I am" or "we are natural-born British subjects and have never taken the oath of Allegiance to any Foreign State," or "naturalized," &c., as the case may be. (d) "Owner" or "mortgagee." (e) Here insert "on the" day of having first duly made his will, dated the day of whereby he appointed (me or us) executor, and (I or we) proved his said will on the day of in the Court of "or, "on the day of intestate, and that letters of administration of his estate and effects were on the day of duly granted to (me or us) by the Court of "† Here insert name of deceased. If in the presence of a registrar he will add to his signature "Registrar of the port of" If in the presence of a magistrate his description should be added, as, for example, "Justice of the peace acting in and for" [naming the county, city, borough, &c., as the case may be.]

## FORM M. (See Section 79.)

## CERTIFICATE OF MORTGAGE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
64,642.	"Adriana"	85 22nd Oct., 1872. St. John, N. B.
No., Date, and Port of previous Registry (if any).		
Whether British or Foreign Built.	Whether a Sailing or Steam Ship; and if a steam ship, how propelled.	Name and Address of Builders.
British	Sailing.	When Built.
	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post.	Launched on the 2nd October, 1872.
Number of Decks. . . . . One and a Half Poop.		Feet. Tenth.
Number of Masts. . . . . Three.		137 2
Rigged. . . . . Barkentine.	Main breadth to outside of plank.	30 0
Stern. . . . . Elliptic.	Depth in hold from tonnage deck to ceiling at midship.	13 6
Build. . . . . Carvel.	Depth in hold from upper deck to ceiling at midship, in the case of three decks and upwards.	
Galleries. . . . . None.	Length of engine room (if any).	
Head. . . . . Billet.	PARTICULARS OF ENGINES (if any.)	
Framework. . . . . Wood.	No. of Engines.	Whether British or Foreign made.
	Description.	When made.
	Name and Address of Makers.	Diameter of Cylinders.
		Length of Stroke.
		No. of Horses Power Combined.

N. B.—These particulars to be filled up from the Certificate of the Ship's Registry.



Engines.	Description.	Foreign made.	made.	Name and Address of Makers.	Cylinders.	Stroke.
<p>N. B.—These particulars to be filled up from the Certificate of the Ship's Registry.</p>						
GROSS TONNAGE.		No. of Tons.	PARTICULARS OF TONNAGE.	No. of Tons.	DEDUCTIONS ALLOWED.	
Under Tonnage Deck.....		405.44	On account of space required for propelling power.....			
Closed in spaces above the Tonnage Deck, if any			On account of spaces occupied by Seamen or Apprentices and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....			
Space or spaces between Decks.....			These spaces are the following, viz:			
Forecastle.....		52.01	Round House Forward.....		10.80	
Round House Forward.....		10.80				
Other closed-in spaces, if any, as follows:						
Trunk on Half Poop.....		8.99				
Gross Tonnage.....		417.33				
Deductions, as per Contract.....		10.89				
Registered Tonnage.....		406.44	Total Deductions.....		10.89	
ACCOUNT OF TITLE OF OWNERS.			Existing Mortgages or Certificates of Mortgage on the same Ship, or Shares included in this Certificate by each.			
Names of Owners.			Number of Sixty-fourth Shares held	None.		
William Loftus Magee.....			Thirty-two.....			
John Henderson Browne.....			Sixteen.....			
Thomas Brassey.....			Eight.....			
Alexander Thomson.....			Eight.....	8-64		
<p>(O) We, the undersigned, being, as above stated, Owners of SIXTY-four shares in the ship above described, as stated in the foregoing account of title, hereby appoint Wm. Jas. L. depute and Geo. Holt, both of Liverpool, in the county of Lancashire, Eng., Merchants, jointly and severally, our Attorneys and our solicitors, to execute and do all such deeds, matters and things as may be necessary for carrying into effect the power hereby given. (a) We declare that the amount of money to be raised by mortgage under this power shall not exceed £2,000 Sterling and that the rate of interest at which the same is raised shall not exceed 5% for every £100 by the year. (a) We declare that the power of mortgaging hereby given may be exercised at London, Liverpool or Glasgow. (a) We declare that the above power shall not be exercised after the expiration of six months from the date hereof. In witness whereof (O) we have hereunto subscribed (b) our names and affixed (c) our seals this 12th day of August, 1874. (Signed), W. L. MAGEE, [L.S.] JOHN H. BROWNE, [L.S.] ALEX. THOMSON, [L.S.]</p> <p>I, Registrar, St. John, N. B., hereby certify that the above written particulars relating to the ship and the title thereto are correct; and I further certify that the said Owners have duly subscribed and affixed (c) their signatures and seals as appears above. Registrar.</p> <p>The within-mentioned Ship is in the Ship Register, and is entered in the Register of Liverpool, at the date of the above Certificate, as being mortgaged to Wm. Wright, of Liverpool, 1874. (Signed), H. E. Cooper, (H) Registrar, (a) port of Liverpool.</p> <p>Every particular should be fully stated. (a) "I" or "we," (b) "My" or "our," (c) "His" or "their," (d) "Registrar" or "consular officer," as the case may be. (e) State port or place. Note here.—Persons who purchase under a certificate of sale or who advance money under a certificate of mortgage, when there is a previous mortgage or a previous certificate of sale or of mortgage endorsed on the certificate under which they purchase, do so at their own risk. Their title is liable to be defeated by the persons claiming under the incumbrance so endorsed.</p>						

## FORM N. (See Section 79.)

## CERTIFICATE OF SALE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,961	"Minister of Marine"	21-13th July, 1874. St. John, N. B.
No., Date, and Port of Previous Registry (if any).		
Whether British or Whether a Sailing or Steam Ship; Foreign Built, and its steamship, how propelled.	Where Built.	When Built.
British..... Sailing.....	Tynewood, St. John County, N. B.	In the year 1874. Launched on the 13th June, 1874.
		Name and Address of Builders.
		John S. Parker, Tynewood, St. John county, N. B.
Number of Decks..... Two and a half poop deck	Length from fore part of stem, under the bowsprit to the aft side of the Head of the stern post.....	Fect. Tenths.
Number of Masts..... Three.	Main breadth to outside of plank.....	217 4
Rigged..... Ship.	Depth in hold from tonnage deck to ceiling at midships.....	40
Stem..... Round.	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.....	25
Build..... Carvel.	Length of engine room, if any.....	
Galleries..... None.		
Head..... Billet.		
Framework..... Wood.		

## PARTICULARS OF ENGINES, (if any).

No. of Engines.	Description.	Whether British or Foreign made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses Power (combined.)
2	Engines.	Foreign made.				

These particulars to be filled up from the Certificate of the Ship's Registry.

## REGISTRATION FORMS.

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These particulars to be filled up from the Certificate of the Ship's Registry.

## PARTICULARS OF TONNAGE.

GROSS TONNAGE.		No. of Tons.	DEDUCTIONS ALLOWED.		No. of Tons.
Under Tonnage Deck.....		1,527.65	On account of space required for propelling power.		
Closed-in spaces above the Tonnage Deck, if any			On account of spaces occupied by Seamen or Ap-		
Space of spaces between Decks.....			prentices, and appropriated to their use, and kept		
Forecastle.....			free from Goods or Stores of every kind, not being		
Peep Lazarette and Wings.....		30.52	the personal property of the Crew.....		
Round House Aft.....		65.25	These Spaces are the following, viz. :—		
Other closed-in spaces, if any, as follows:—					
Round House Forward.....					
Gross Tonnage.....		1,682.19	None claimed, the Act not being fully complied with,		
Deductions, as per Contra.....			respect of mackings.....		
Registered Tonnage.....		1,682.19	Total Deductions.....		
ACCOUNT OF TITLE TO THE ABOVE MENTIONED SHIP.					
Names of Owners.		No. of Shares held by each.	Account of Mortgages or Certificates of Mortgage granted in respect of Ship.		

(a) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(b) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(c) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(d) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(e) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(f) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(g) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(h) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(i) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(j) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(k) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(l) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(m) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(n) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(o) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(p) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(q) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(r) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(s) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(t) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(u) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(v) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(w) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(x) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(y) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

(z) We, the undersigned, being the Owners of the ship above described, do hereby certify that the above written particulars relating to the ship (a) Minister of Marine, and to the title of the above mentioned Owners are correct; and I further certify that the said Owners have duly subscribed and advised (c) their signatures and seals as above appears.

FORM O 1. (See Section 83.)  
REVOCATION OF CERTIFICATE OF MORTGAGE OR SALE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.
66,961	"Minister of Marine"	21-13th July, 1874. St. John, N. B.
N. B. Date, and Port of Previous Registry (if any).		
Whether British or Foreign Built.	Whether a Sailing or Steam Ship; and if a steamship, how propelled.	Name and Address of Builders.
British.	Sailing.	Tynemouth, St. John in the year 1874. John S. Parker, Tynemouth, N. B. Launched on the 13th month, St. John county, June, 1874.
Number of Decks.	Two and a half poop.	Length from fore part of stem, under the bowsprit to the aft side of the Head of the stern post.
Number of Masts.	Three.	Main breadth to outside of plank.
Rigged.	Ship.	Depth in hold from tonnage deck to ceiling at midships.
Stem.	Round.	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards.
Build.	Carvel.	Length of engine room, if any.
Galleries.	None.	
Head.	Billet.	
Framework.	Wood.	
PARTICULARS OF ENGINES, (if any).		
No. of Engines.	Whether British or When made.	Name and Address of Makers.
	Foreign made.	Cylinders. Stroke.
		No. of Horses Power (combined.)

These particulars to be filled up from the Certificate of the Ship's Registry.

These particulars to be filled up from the Certificate of the Ship's Registry.

# PARTICULARS OF TONNAGE.

GROSS TONNAGE.		DEDUCTIONS ALLOWED. (32 per cent.) No. of Tons.	
Under Tonnage Deck.....	No. of Tons.	1527.65	On account of space required for propelling power.....
Closed-in spaces above the Tonnage Deck, if any			On account of spaces occupied by Seamen or Apprentices, and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....
Space or spaces between Decks.....	30.62		These spaces are the following, viz.:
Poop, Lazarette and Wings.....			None claimed, the Act not being fully complied with,
Forecastle.....	65.28		in respect of markings.....
Round House.....			
Other closed-in spaces, if any, as follows:	58.74		
Round House Forward.....			

Gross Tonnage..... 1682.19  
Deductions, as per Contra.....

Registered Tonnage..... 1682.19

Total Deductions.....

(a) We, Jacob Valentine Troop, Howard Douglas Troop, Jacob Fritz, and John Stewart Parker, of the City and County of St. John, New Brunswick, being Owners of Sixty-four 64th shares in the Ship above described, hereby revoke the power of (b) selling the said shares given by (c) us to Thomas Cutler Jones, of Liverpool, England, by a certificate of (d) sale dated the fourteenth day of December, one thousand eight hundred and seventy-four.

In witness whereof, (a) we have hereunto subscribed (e) our names and affixed (e) our seals this fourteenth day of January, one thousand eight hundred and seventy-five.

I, John N. B., hereby certify that the said (f) Owners, Registrar of St. John, N. B., have executed this power of revocation in manner above appearing.

(Signed): J. V. TROOP, L. N.  
H. D. TROOP, L. S.  
JACOB FRITZ, L. N.  
JOHN S. PARKER, L. N.  
Registrar of the Port of St. John, N. B.

(a) "I" or "we," (b) "Mortgaging" or "selling," (c) "Me" or "us," (d) "Mortgage" or "sale," (e) "My" or "our," (f) "Owner" or "mortgagee."

FORM O. 2 (See Section 83.)  
REVOCATION OF CERTIFICATE OF MORTGAGE OR SALE.

Official Number of Ship.	Name of Ship.	No., Date, and Port of Registry.	
64642	"Adriana"	85-22nd Oct., 1872. St. John, N. B.	
No., Date, and Port of previous Registry (if any).....			
Whether British or Whether a Sailing or Steam Ship; Foreign Built. and if a steam ship, how propelled.			
British.....	Sailing.....	Where Built. When Built. Name and Address of Builders.	
		Portland, St. John, N. B. In the year 1872..... Alex. Ruddock, Portland, Launched on the 2nd St. John, N. B. October, 1872.....	
Number of Decks..... One and a half poop deck.		Length from fore part of stem, under the bowsprit, to the aft..... Feet. Tenths.	
Number of Masts..... Three.		Length from fore part of stem, side of the head of the stern post.....	
Rigged..... Barkentine.		Main breadth to outside of plank..... 20 0	
Stern..... Elliptic.		Depth in hold from tonnage deck to ceiling at midship..... 13 6	
Build..... Carvel.		Depth in hold from upper deck to ceiling at midship, in the case of three decks and upwards.....	
Galleries..... None.		Length of engine room (if any).....	
Head..... Billet.		PARTICULARS OF ENGINES (if any.)	
Framework..... Wood.		No. of Engines. Description.	Whether British or Foreign made.
		When made.	Name and Address of Makers.
		Diameter of Cylinders.	Length of Stroke.
		No. of Horses.	Power Combined.

These particulars to be filled up from the Certificate of the Ship's Registry.

These particulars to be filled up from the Certificate of the Ship's Registry.

# REGISTRATION FORMS.

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## PARTICULARS OF TONNAGE.

Gross Tonnage.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under Tonnage Deck.....	465.44	On account of space required for propelling power.....	
Closed-in spaces above the Tonnage Deck, if any		On account of spaces occupied by Seamen or Apprentices and appropriated to their use, and kept free from Goods or Stores of every kind, not being the personal property of the Crew.....	
Half Poop.....	32.01	These spaces are the following, viz:	
Forecastle.....			
Round House Forward.....	10.89	Round House Forward.....	10.89
Other closed-in spaces, if any, as follows:			
Trunk on Half Poop.....	8.99		
Gross Tonnage.....	477.33		
Deductions, as per Contra.....	10.89	Total Deductions.....	10.89
Registered Tonnage.....	466.44		

(a) We, William Loftus Magee, John Henderson Browne, Thomas Brassey and Alexander Thomson, all of St. John, in the county of St. John, N. B., being Owners of 64 shares in the Ship above described, hereby revoke the power of (b) mortgaging the said shares given by (c) us to William Jas. Lamport and Geo. Holt, both of Liverpool, England, by a certificate of (d) Mortgage dated the 12th day of August, 1874.

In witness whereof (e) we have hereunto subscribed (f) our names and affixed (g) our seals this 12th day of September, 1874.

I, Registrar of St. John, (Signed,) W. L. MAGEE. (L.S.)

N. B., hereby certify that the said (f) "JOHN H. BROWNE. (L.S.)

Mortgagees have executed this power of "THOMAS BRASSEY, (L.S.)

revocation in manner above appearing." "ALEX. THOMSON. (L.S.)

Registrar of St. John, N. B.

(a) "I" or "we," (b) "Mortgaging" or "selling," (c) "Me" or "us," (d) "Mortgage" or "sale," (e) "My" or "our," (f) "Owner" or "mortgagee."

## FORM P.

## LETTER ON CHANGE OF MASTER.

PORT OF ST. JOHN, NEW BRUNSWICK, 7TH APRIL, 1875.

Name of Ship.	Official No.	Port of Registry	Port No.	Name of former Master.	No. of his Certificate.
Polino.....	62,598	Sunderland, England.....	74—	1870 George J. Leach.....	81,892
<p>Name of new Master, Basil Deroy, Junr.  No. of his Certificate, 67 Comp. Canada.  Address, L'Islet, Quebec.</p>					

SIR,—The above-named new Master has been appointed Master of the above-named Ship, in lieu of the former Master, and the Certificate of Registry has been indorsed accordingly.

(Signed,)

JAMES BARBER, Pro Registrar.

To the Chief Registrar of Shipping }  
Custom House, London. }



## FORM Q.

## BUILDERS CERTIFICATE.

PORT OF ST. JOHN, N. B., 8th April, 1875.

I, David DeLong, Shipbuilder at St. Martins, New Brunswick, do hereby certify that the Sailing Vessel "Chandos," of 630 22 100 Tons Register or thereabouts, having a Round Stern, Billet Head, Two and half Poop Decks, and fitted with Three Masts Ship rigged, was built by me at my yard in the year 1875, and launched on the 20th day of March, 1875, \* on account of William Johnston, Sixteen Shares; Charles Laird, Thirty-two Shares, and Samuel Percy, Sixteen Shares, all of St. John, New Brunswick, Merchants.

Her dimensions are as follows, viz.:

Extreme Length.....feet.....tenths.

Extreme Breadth .....feet.....tenths.

Depth in hold in Midships.....feet.....tenths.

[Signed]

W. DELONG,

Shipbuilder.

\* State the names of the Owners in full, with their places of residence, occupations, and number of shares held by each.

## FORM R.

Application for Registry of a Ship which may be used under the  
35th Section of the Merchant Shipping Act, 1854.

St. John, N. B., 10th April, 1875.

To the Registrar of Shipping,  
St. John, New Brunswick.

SIR,—I herewith hand you a Builder's Certificate, Surveyor's Certificate, and Declaration of Ownership for the Ship "Banian" which has been built by Mr. David Munroe, at his yard at Long Reach, Kings County, New Brunswick, for us. And request that you will grant registry for her in our names when all the requisites of the Law have been complied with, viz.:

James Arthur Penry, Trader, Four shares; Thomas White, Merchant, Four shares, both of St. George, Charlotte County, New Brunswick; William Albert Turner, Merchant, Thirty-two shares; John Wishart Peters, Clerk, and Frederick Clements, Master Mariner, Joint Owners of Eight shares; Nathaniel Boone, Lumber Surveyor, Sixteen shares, all of St. John, New Brunswick.

Her dimensions are as follows:

Length, 211 feet 2 tenths.

Breadth, 39 feet 1 tenth.

Depth, 23 feet 9 tenths.

and Measuring 1,171 22 100 Tons Register.

We are Sir, your Obedient Servants,

JAMES A. PENRY,  
T. WHITE,  
WM. A. TURNER,  
JOHN H. PETERS,  
F. CLEMENTS,  
N. BOONE.

under the  
54.  
Fil, 1875.

Surveyor's  
"Banian"  
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ounty, New  
wo shares;  
ts, Master  
ne, Lumber  
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**SCHEDULE OF FEES** established by the Governor in Council  
on 26th March, 1874, to which Surveyors of Shipping in Can-  
ada shall be entitled, for the measurement of vessels about to  
be registered under the Merchant Shipping Act of 1874 and  
its amendments :

For vessels under 100 tons register.....	\$2.00
“ of 100 tons and not exceeding 200 tons.....	3.00
“ over 200 tons and not exceeding 400 tons.....	4.00
“ over 400 tons and not exceeding 1,000 tons.....	5.00
“ over 1,000 tons.....	6.00

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SEAMAN'S WAGES ACT.  
SEAMAN'S ACT, 1873.

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CHAP. 129, 36 VIC.

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SECTIONS APPLYING TO INLAND WATERS.

MODE OF RECOVERING WAGES.

52. Any seaman or apprentice belonging to any ship registered in either of the said provinces, or any person duly authorized on his behalf, may sue in a summary manner before any judge of the sessions of the peace, any judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding two hundred dollars over and above the costs of any proceeding for the recovery thereof, as soon as the same becomes payable, and such judge, magistrate, or justices may, upon complaint on oath to be made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner, or other person to appear before him or them to answer such complaint.

53. Upon appearance of such master or owner (or in default thereof, on due proof of his having been so summoned) such judge, magistrate, or justice may examine upon the oath of the respective witnesses of the parties (if there be any), or upon the oath of either of the parties, in case one of the parties should require such oath from the other, before such judge, magistrate or justices, touching the complaint and amount of wages due, and may make such order for the payment thereof, as to such judge, magistrate, or justices appears reasonable and just; and any order made by such judge of the sessions of the peace, judge of a county court, stipendiary magistrate, police magistrate, or justices, shall be final.

54. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate, or justices, may issue a warrant to levy the amount of the wages awarded to be due, by the distress and sale of the goods and chattels of the party on whom such order is made, rendering to such party the overplus (if any remains) of the produce of the sale, after deducting therefrom all the charges and expenses incurred by the seaman or apprentice in the

making and hearing of the complaint, as well as those incurred by the distress and levy, and in the enforcement of the order.

55. And in case sufficient distress cannot be found, such judge, magistrate, or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship is not within the jurisdiction of such judge, magistrate, or justices, then they may cause the party on whom the order for payment is made to be apprehended and committed to the common gaol of the locality, or if there be no gaol there, then to that which is nearest to the locality, for a time not less than one, nor more than three months, under each such condemnation.

56. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship registered in either of the said Provinces in any Court of Vice Admiralty, or in any superior court of record either in the said Provinces, unless the owner of the ship is insolvent within the meaning of any Act respecting insolvency, for the time being in force in Canada, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any judge, magistrate, or justices acting under the authority of this Act, refer the case to be adjudged by such court, or unless neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

57. If any suit for the recovery of a seaman's wages is instituted against any such ship or the master or owner thereof, in any Court of Vice Admiralty or in any Court of Record in either of the said Provinces, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages, by complaint to a judge of the sessions of the peace, judge of a county court, stipendiary magistrate, police magistrate, or two justices of the peace under this Act, then the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff.

58. No seaman belonging to any Canadian foreign sea-going ship, who is engaged for a voyage or engagement which is to terminate in either of the said Provinces, shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required, and with the written consent of the master, or prove such ill-usage on the part of the master or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to either of the said Provinces proves that the master or owner has been guilty of any conduct or default which but for this enactment would have entitled the seamen to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to

his wages such compensation not exceeding eighty dollars as the court hearing the case thinks reasonable.

59. Every master of a ship registered in either of the said Provinces, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages, which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages : and if in any proceeding in any Court of Vice Admiralty, or court possessing admiralty jurisdiction in either of the said Provinces touching the claim of a master to wages any right of set-off or counter claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

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## SEAMAN'S WAGES ACT.

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### 45 VICTORIA.

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#### CHAP. 35.

An Act to amend the Act forty-second Victoria, chapter forty, intituled "An Act to amend 'The Maritime Jurisdiction Act, 1877,'" and to make further provision for the recovery of the wages of seamen employed on vessels navigating the inland waters of Canada.

[Assented to 17th May, 1882.]

**H**ER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. Notwithstanding anything contained in the Act made and passed in the forty-second year of Her present Majesty's reign, chaptered forty, and intituled "An Act to amend 'The Maritime Jurisdiction Act, 1877,'" a right or remedy *in rem* for the wages accruing after the passing of this Act, of seamen and other persons employed on board a ship on any river, lake, canal, or inland water of which the whole or part is in the Province of Ontario, may be enforced against the ship under "The Maritime Jurisdiction Act, 1877," as fully, to all intents and purposes, as though the Act first in this section recited had not been passed.

2. Seamen and other persons employed on board a ship on any river, lake, canal or inland water of which the whole or part is in the Province of Ontario, in addition to any other remedy they may have in that behalf, may recover their wages in the mode and manner provided by "The Seamen's Act, 1873," for the recovery of seamen's wages, and with the like remedies for enforcing payment.

3. Nothing in the fifty-first section of "The Seamen's Act, 1873," shall prevent a seaman or other person employed on board any ship on any river, lake, canal or inland water of which the whole or part is in the Province of Ontario, from proceeding for the recovery of his wages so soon as under his contract of service, or by law, his right of action accrues.

4. The second section of the Act, forty-second Victoria, chapter forty, aforesaid, is hereby repealed.

5. The word "ship" shall, for the purposes of this Act, include every description of vessel used in navigation not propelled by oars.

## SEAMAN'S ARTICLES.

### 38 VICTORIA.

#### CHAP. 29.

An Act to extend certain provisions of "The Seamen's Act, 1873," to vessels employed in navigating the inland waters of Canada.

[Assented to 8th April, 1875.]

WHEREAS "The Seamen's Act, 1873" does not apply to the Inland Waters of the Dominion; and whereas under the provisions of section twenty-six of the said Act, no master of any ship whatever of less than eighty tons, registered tonnage, and no master of any ship of that tonnage or upwards trading from any port or place in any Province to which the said Act applies, to any other port or place in the same Province, is required to enter into an agreement with seamen whom he carries as his crew; and whereas it is expedient that masters of certain British ships navigating the inland waters aforesaid, not required either by the said section twenty-six or by section twenty-seven of the said Act to enter into an agreement with the seamen whom they carry as part of their crews, should be required to enter into such agreement: Therefore Her Majesty, by

and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. This Act may be cited for all purposes as "The Seamen's Agreement Act, 1875."

2. In the construction and for the purposes of this Act, (if not inconsistent with the context or subject matter) the following words shall have the respective meanings hereinafter assigned to them, that is to say : -

"Ship" shall include every description of vessel used in navigation not propelled by oars ;

"Master" shall include every person (except a pilot) having command or charge of a ship ;

"Seamen" shall include every person (except masters and pilots) employed or engaged in any capacity on board any ship ;

"Consular officer" shall include Consul General, Consul, and Vice-Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice-Consul ;

"The Minister" shall mean the Minister of Marine and Fisheries ;

"Ships subject to the provisions of this Act" shall include every ship registered in Canada propelled by steam and of more than twenty tons, registered tonnage, or propelled otherwise than by steam and of more than fifty tons registered tonnage, and employed in navigating the inland waters of Canada above the harbour of Quebec : Provided that this Act shall not apply to barges and scows navigating rivers and canals.

3. The master of every ship subject to the provisions of this Act, shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner hereinafter mentioned ; and every such agreement shall be in the form of the Schedule A, annexed to this Act, or as near thereto as circumstances admit, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say :

1. The nature and, as far as practicable, the duration of the intended voyage or engagement ;

2. The number and description of the crew, specifying how many are engaged as sailors ;

3. The time at which each seaman is to be on board or to begin work ;

The capacity in which each seaman is to serve ;



5. The amount of wages which each seaman is to receive ;

6. Any regulations as to conduct on board, and as to fines, or other lawful punishments for misconduct which the parties agree to adopt :

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seamen in each case, as to advances, and may contain any other stipulations which are not contrary to law ; and every such agreement must be made and signed in presence of a respectable witness, or a shipping master or chief officer of customs, who shall attest each signature on such agreement. And any seaman who has signed any such agreement may at the termination of his engagement, if the master thinks fit, be discharged before any shipping master or chief officer of customs in Canada ; and at any period during any such engagement, and before its termination, it shall be lawful for the master to discharge any such seaman on payment of his wages, and with his consent ; and any such discharge may be made, if the master thinks fit, before any shipping master or chief officer of customs in Canada.

4. In the case of ships subject to the provisions of this Act making short voyages, running agreements with the crew may be made to extend over two or more voyages, or for a specified time, so that no such agreement shall extend beyond eight months from the date of such agreement, or the first arrival of the ship at her port of destination after the termination of such agreement, or the discharge of cargo consequent upon such arrival ; and every person entering into such agreement, whether engaged upon the first commencement thereof, or otherwise, shall enter into and sign the same in the manner hereinbefore required ; and every person engaged thereunder when discharged may be discharged in the manner hereinbefore provided for.

5. If in any case the master of any ship subject to the provisions of this Act, carries any seaman as one of his crew without entering into an agreement with him, in the form and manner and at the place and time in such case required, such master shall, for each such offence, incur a penalty not exceeding twenty dollars.

6. Every erasure, interlineation or alteration in any such agreement with seamen as is required by this Act, (except additions so made for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration, by the written attestation (if made in Her Majesty's Dominions), of some shipping master, justice, officer of customs, or other public functionary, or, (if made out of Her Majesty's Dominions) of a British Consular officer, or where there is no such officer, of two respectable witnesses.

7. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered a false copy of any agreement under this Act, shall for each such offence be deemed guilty of a misdemeanor.

8. Any seaman may bring forward evidence to prove the contents of any agreement under this Act or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

9. Any seaman who has signed an agreement under this Act, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

10. Whenever any agreement under this Act is signed before any shipping master or a chief officer of customs as a witness thereto, such officer shall append his title of office to his signature as such witness; and the sum of forty cents shall be payable to every such officer upon each engagement of a seaman before him, and the sum of twenty cents shall be payable to every such officer upon each discharge of a seaman effected before him as hereinbefore mentioned; and any shipping master or chief officer of customs may refuse to sign any such engagement or discharge, as a witness thereto, unless the fee payable thereon is first paid.

11. In cases where the services of any seaman belonging to any ship subject to the provisions of this Act, terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage, granted by competent authority, such seaman shall be entitled to wages for the time of services prior to such termination as aforesaid, but not for any further period.

12. No seaman belonging to any ship subject to the provisions of this Act, shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for offence committed by him.

**13.** When a seaman belonging to any ship subject to the provisions of this Act, is by reason of illness incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of such illness incapable of performing his duty.

**14.** No seaman belonging to any ship subject to the provisions of this Act, who is engaged for a voyage or engagement which is to terminate in Canada, shall be entitled to sue in any court out of Canada for wages, unless he is discharged with the written consent of the master or proves such ill-usage on the part of the master or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to Canada proves that the master or owner has been guilty of any conduct or default which, but for this enactment, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable.

**15.** The master or owner of every ship subject to the provisions of this Act, shall, at all times when required so to do by the Minister or by any person in that behalf duly authorized by the Minister, or by any inspector of steamboats or custom house officer or officer of river police, produce and exhibit to the Minister or to such person authorized by him, or to such inspector of steamboats or custom house officer or officer of river police, any agreement then in force and subsisting between the master of such ship and the seamen whom he carries as his crew; and every such owner or master who fails to comply with the requirements of this section shall thereby incur a penalty of twenty dollars.

#### DISCIPLINE.

**16.** Any master of or any seaman belonging to any ship subject to the provisions of this Act, who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanor.

**17.** Whenever any seaman, who has been lawfully engaged or bound to any ship subject to the provisions of this Act, and has duly

signed an agreement as required by this Act, commits any of the following offences, he shall be liable to be punished summarily as follows, that is to say :

1. For desertion he shall be liable to imprisonment for any period not less than four weeks, and not exceeding twelve weeks, with hard labor, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to either of the Provinces of Ontario or Quebec, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him ;

3. For neglecting or refusing, without reasonable cause, to join his ship, or to proceed on any voyage in his ship, or for absence without leave at any time within twenty-four hours of the ships sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion, or not treated as such by the master, he shall be liable to imprisonment for any period not less than four weeks, and not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

3. For quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay ;

4. For wilful disobedience to any lawful command, he shall be liable to imprisonment for any period not less than two weeks, and not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay ;

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not less than four weeks, and not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute ;

6. For assaulting any master or mate, he shall be liable to imprisonment for any period not less than six weeks, and not exceeding twelve weeks, with hard labour ;

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not less than six weeks, and not exceeding twelve weeks, with hard labour ;

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not less than six weeks, and not exceeding twelve weeks, with hard labour ;

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage ; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

18. Whenever, either at the commencement or during the progress of any voyage, any seaman neglects or refuses to proceed in any ship subject to the provisions of this Act, in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband or consignee may, in any place in either of the Provinces of Ontario or Quebec, with or without the assistance of the local police officers or constables (who are hereby directed to give the same if required) apprehend him without first procuring a warrant ; and may thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law ; and may, for the purposes of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board ; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband or consignee who makes the same or causes the same to be made, shall incur a penalty not exceeding eighty dollars ; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

19. Whenever any seaman belonging to any ship subject to the provisions of this Act, is brought before any court in either of the

Provinces of Ontario or Quebec, on the ground of his having neglected or refused to join or proceed in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may, in such case, order any costs and expenses, properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn.

20. If any seaman is imprisoned in either of the said Provinces, on the ground of his having neglected or refused to join or to proceed in any ship subject to the provisions of this Act, in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if during such imprisonment, and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

21. Whenever a question arises in either of the said Provinces whether the wages of any seamen belonging to any ship subject to the provisions of this Act, are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman can produce a proper certificate of discharge, or can otherwise show, to the satisfaction of the court, that he had sufficient reasons for leaving his ship.

22. Whenever, in any proceeding in either of the said Provinces relating to seamen's wages, it is shown that any seaman belonging to any ship subject to the provisions of this Act, has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due

to such seaman not exceeding twelve dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment.

23. Whenever any seaman belonging to any ship subject to the provisions of this Act, contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share, as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

24. All clothes, effects, wages and emoluments which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied, in the first instance, in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and, in any legal proceeding relating to such wages, the court may order the same to be paid accordingly; and subject to such reimbursement, the same shall be paid to the Receiver General, in such manner as the Minister may direct, to form part of the Consolidated Revenue Fund in Canada; and in other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

25. Any question concerning the forfeiture of or deductions from the wages of any seaman, belonging to any ship subject to the provisions of this Act, may be determined in any proceeding in either of the said Provinces lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

26. If any seaman, on or before being engaged in either of the said Provinces, in any ship subject to the provisions of this Act, wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding twenty dollars; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous

desertion, be paid and applied in the same manner as other penalties payable under this Act.

ENTICING TO DESERT AND HARBOURING DESERTERS.

27. Every person who, by any means whatever, persuades or attempts to persuade any seaman, belonging to any ship subject to the provisions of this Act, to neglect or refuse to join or to desert from his ship, or to absent himself from his duty, shall, for the first offence in respect of each such seaman, be liable to imprisonment with hard labor for a period not less than one month and not exceeding six months; and for the second or any subsequent offences, in respect to each such seaman, be liable to imprisonment with hard labor, for a period not less than two months and not exceeding twelve months; and every person who wilfully harbours or secretes any such seaman who has deserted from his ship, or who has wilfully neglected or refused to join his ship, knowing or having reason to believe such seaman to have so done, shall, for every such seaman so harbored or secreted, be liable to imprisonment, with hard labor, for a period not less than one month and not exceeding six months, and for a second, or any subsequent offence, for a period not less than two months and not exceeding twelve months.

CHANGE OF MASTER.

28. If, during the progress of a voyage, the master of any ship subject to the provisions of this Act, is superseded in either of the said Provinces, or, for any other reason, quits the ship and is succeeded in command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship, and to the crew thereof which are in his custody, and shall, in default, incur a penalty not exceeding four hundred dollars.

LEGAL PROCEDURE.

29. The time for instituting summary proceedings under this Act, shall be limited as follows that is to say :

No conviction for any offence shall be made in any summary proceeding under this Act, unless such proceeding is commenced within six months after the commission of the offence, or if both or either of the parties to such proceeding happen, during such time, to be out of either of the said Provinces, or not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within either of the said Provinces, or within such jurisdiction :

No order for payment of money shall be made in any summary proceeding under this Act, unless such proceeding is commenced



within six months after the cause of complaint arises, or if both or either of the parties happen, during such time, to be out of either of the said Provinces, unless the same is commenced within six months after they both first happen to arrive or to be at one time within either of the said Provinces.

30. All penalties imposed by this Act may be recovered, with costs, before any Justice of the Peace, upon the oath of one credible witness other than the informer, and shall be paid over to the Receiver General, to be disposed of as the Governor in Council may direct, (except in the case provided for in the next following section, in which only part of the penalty shall be so paid over and disposed of,) and in case of non-payment, shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such Justice of the Peace, directed to a constable or other peace officer; and the overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner; and for want of sufficient distress, the offender shall be committed by warrant under the hand and seal of the justice, to the common gaol of the locality, or if there be no common gaol there, then to that common gaol which is nearest to that locality, for any time not exceeding six months; and such justice shall also award and order the imprisonment (if any) to which the offender is liable for the offence whereby the penalty is incurred.

31. In all cases of complaints made by or on behalf of any seaman under this Act, the evidence of such seaman shall be received and taken, notwithstanding he be interested in the matter; and such seaman shall, in any such case where he has been so examined, receive such part of any penalty to be imposed as the magistrate before whom the case is heard shall adjudge him to receive, for any moneys or effects which appear to have been deposited by him with the person on whom such penalty is imposed.

32. There shall be no appeal from any conviction or order adjudged or made under this Act, by or before any judge of the sessions of the peace, stipendiary magistrate, police magistrate, or any two justices of the peace, or magistrate having the power of two justices of the peace, as to summary convictions and orders, for any offence against this Act; and no conviction under this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of Her Majesty's superior courts of record; and no warrant of commitment under this Act shall be held void by reason of any defect therein, provided it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same.

33 Any one of Her Majesty's Justices of the Peace, at any port

or place in either of the said Provinces, on complaint before him by the oath of one or more credible witness or witnesses, that any seaman under this Act is concealed or secreted in any dwelling-house or out-house, or on board of any ship, or elsewhere, shall grant a warrant under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search, in or about such dwelling-house or out-house, or on board such ship, or such other place or places as shall be specified in the warrant, and to bring before him every such seaman found concealed, whether named in the warrant or not.

34. Any police officer or constable required under the provisions of this Act to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending, with or without a warrant, any seaman duly engaged to serve in such ship, and neglecting or refusing to proceed to sea therein, or being found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale house, beer house, seaman's boarding house, or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill-fame ; and any person being therein, or having charge thereof, who refuses, or after due summons fails to admit such police officer or constable into the same, or offers any obstruction to his admission thereto, shall incur a penalty of not less than ten dollars nor more than fifty dollars for every such offence.

35. This Act shall not come into effect until the first day of January, A. D., 1876.

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# SCHEDULE AGREEMENT, OR ARTICLES SUBJECT TO THE

Name of ship.	Official Number.	Port of Registry.	Port No. and Date of Register.	Registered Tonnage.	MANAGING OWNER Name.
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The several persons whose names are hereto subscribed, and whose descriptions are contained below, hereby agree to serve on board the ~~from~~<sup>a</sup> (or, which Ship is to be employed<sup>b</sup>)

And the said Crew agree to conduct themselves in an orderly, faithful, honest and sober manner, and to be at all times diligent in their any person who shall lawfully succeed him, and of their Superior Officers, in everything relating to the said Ship, and the Stores and Cargo, be duly performed, the said Master hereby agrees to pay to the said Crew as Wages the sums against their names respectively expressed, and ~~that~~ any embezzlement or wilful or negligent destruction of any part of the Ship's Cargo or Stores shall be made good to the Owner out of the ~~for~~ a duty which he proves incompetent to perform, his Wages shall be reduced in proportion to his incompetency; And it is also agreed that

In witness whereof the said Parties have subscribed their names hereto on the days against their respective signatures mentioned.

Signed by \_\_\_\_\_ Master, on the \_\_\_\_\_ day of \_\_\_\_\_

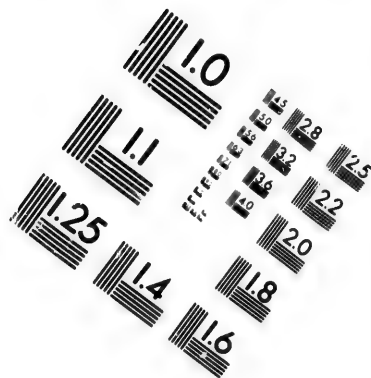
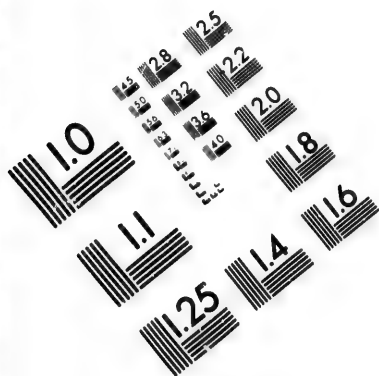
Signature of Crew.	Age.	Where Born.	Ship in which he last served, Official Number, and Port she belonged to or other Employment.	Date and Place of Birth.

PLACE OF SIGNATURES AND DESCRIPTIONS OF SUBSTITUTES

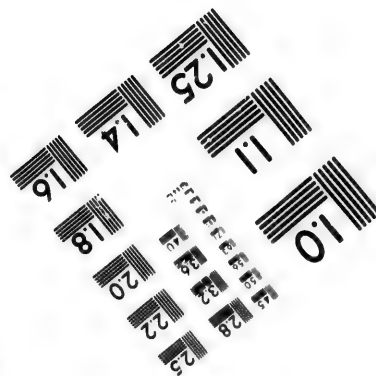
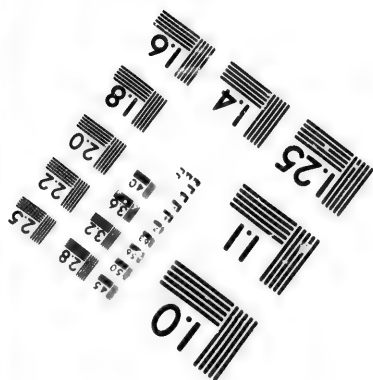
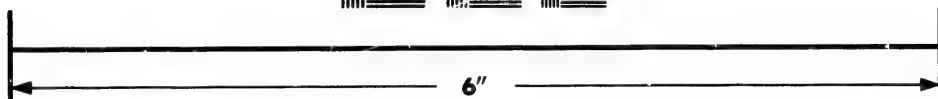
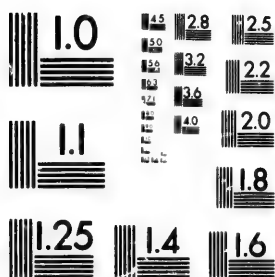
NOTE.—Any Erasure, Interlineation, or Alteration, in this Agreement, except in the case of Substitutes, will be void, unless attested by some Shipping Master, Officer of Customs, Consul, or Vice-Consul, or other respectable witnesses to be made with the consent of the persons interested.







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## REMOVAL OF WRECKS &amp;c.

## CHAP. 29, 37 VIC.

An Act for the removal of obstructions, by wreck and like causes, in Navigable Waters of Canada, and other purposes relative to wrecks.

[Assented to 26th May, 1874.]

**W**HEREAS it frequently happens that the navigation of the rivers and other waters of the Dominion, is obstructed by wrecks and other obstacles hereinafter mentioned; for remedy thereof, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Whenever in the opinion of the Minister of Marine and Fisheries, the navigation of any river, lake, bay, creek, harbour, or other navigable water over which the jurisdiction of the Parliament of Canada extends, is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking or lying ashore or grounding, of any vessel or craft whatever, or of any part thereof, or other thing, and whatever the cause of such obstruction occurred before or after the passing of this Act, then if such obstruction continues for more than twenty-four hours, the said Minister may, under the authority of an order of the Governor in Council, cause the same to be removed or destroyed in such manner and by such means as he may think fit, including the use of gunpowder or other explosive substance if he deems it advisable, and may cause such vessel, craft, or its cargo or the material or thing causing or forming part of such obstruction to be conveyed to such place as he may think proper, and to be there sold by auction or otherwise as he may deem most advisable, and may apply the proceeds of such sale to make good the expenses incurred for the purposes aforesaid,—paying over any surplus of such proceeds to the owner or owners of the things sold, or other parties entitled to such proceeds or any part thereof, respectively.

2. The owner, master or person in charge of any vessel or craft or other thing, by which any such obstruction or obstacle as aforesaid is caused, shall forthwith give notice of the existence of that obstacle to the said Minister, or to the Collector of Customs, at the nearest or most convenient port, under a penalty of forty dollars for every day during which he neglects so to do without lawful or reasonable excuse; but neither such notice nor anything in this Act shall be construed to exempt such owner, master or person from any obligation or responsibility with respect to such obstruction imposed on him by any other law then in force, or to derogate from or impair any power or right vested by such law in any Trinity House or other authority with respect to such obstruction, and not incompatible with the powers hereby vested in the Minister of Marine and Fisheries, under this Act.

3. Any pecuniary penalty imposed by this Act shall be recoverable and payment thereof enforced in a summary manner, with costs, before any two Justices of the Peace, or any magistrate having the power of two justices, under the "Act respecting duties of Justices of the Peace, out of sessions, in relation to summary convictions and orders;" and one moiety of such penalty shall belong to the prosecutor and the other moiety to the Crown for the public uses of the Dominion, unless the same be recovered on the evidence of such prosecutor alone,—in which case the whole shall belong to the Crown for the uses aforesaid.

4. The Minister of Marine and Fisheries may appoint any officer of the Government of Canada by his name or title of office, and without otherwise naming or designating him, to make the enquiry mentioned in the first four sections of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "An Act respecting inquiries and investigations into shipwrecks and other matters," and such officer shall then have and perform all the powers and duties assigned by the said Act to any principal officer of Customs or other person appointed for the like purpose by the said Minister under the first section of the said Act; and the Governor in Council may appoint any officer or officers of the Government of Canada or any body corporate, commissioner or commissioners, constituted for any public purposes subject to the legislative authority of the Parliament of Canada, by his, their or its name or names, or title or titles of office, or corporate name, to be a court or tribunal under and for the purposes of the fifth and sixth following sections of the said Act, and such officer or officers or body corporate, commissioner or commissioners, shall then have and perform all the powers and duties assigned by the said Act to any such court or tribunal constituted under it.

5. In this Act the word "vessel" includes every description of

ship, vessel, boat or craft of any kind, and whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only.

### CHAP. 30, 43 VICT.

An Act to amend the law respecting the removal of obstructions in navigable waters by wrecks.

[Assented to 7th May, 1880.]

**I**N amendment of the Act passed in the thirty-seventh year of Her Majesty's reign and intituled "An Act for the removal of obstructions, by wreck and like causes, in navigable waters of Canada, and other purposes relative to wrecks:" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:—

1. Whenever, under the provisions of the Act cited in the preamble, the Minister of Marine and Fisheries has under the authority of an order of the Governor in Council, caused any obstruction or impediment to the navigation of any navigable water by the wreck, sinking or lying ashore or grounding of any vessel, craft or part thereof, or other thing to be removed or destroyed, and the cost of removing or destroying the same has been defrayed out of the public moneys of the Dominion,—then, if the net proceeds of the sale under the said Act of such vessel, craft or its cargo, or the material or thing which caused or formed part of such obstruction, are not sufficient to make good the expenses incurred for the purposes aforesaid and the costs of sale, the amount by which such proceeds fall short of the expenses so defrayed as aforesaid and costs of sale, or the whole amount of such expenses, if there is nothing which can be sold as aforesaid, shall be recoverable with costs by the Crown from the owner or owners of the vessel, craft or other thing which caused such obstruction or impediment; and the sum so recovered shall form part of the Consolidated Revenue Fund of Canada.

### CHAP. 55, 36 VICT.

An Act respecting Wreck and Salvage.

[Assented to 23rd May, 1873.]

**H**ER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited for all purposes as "The Wreck and Salvage Act, 1873."

2. This Act shall come into operation upon, from and after the first day of January, one thousand eight hundred and seventy-four.

3. In this Act.

The term "the Minister," means the Minister of Marine and Fisheries ;

The word "Master," includes every person having command or charge of any vessel ;

The word "Vessel" includes every description of vessel used in navigation ;

The word "Tackle," used in relation to a vessel, includes all furniture and apparel thereof ;

The word "Goods," includes wares and merchandize of every description.

*Appointment of Receivers of Wrecks.*

4. The Minister of Marine and Fisheries shall, throughout Canada, have the general superintendence of all matters relating to wreck and to shipping casualties ; and the Governor may, from time to time, appoint any officer of the customs or, where it appears to him to be more convenient, any other person, to be a Receiver of Wreck, (in this Act referred to as Receiver); and may from time to time, remove any Receiver, and may from time to time, by order in council, establish, alter or abolish districts for the purposes of this Act, and assign a district to any Receiver, and may vary such district from time to time ; and may from time to time make and vary regulations for the conduct of Receivers, subject to the provisions of this Act. And if, at any time, there be not any Receiver appointed for any district in which the City of Quebec, or the City of Halifax, or the City of St. John is included, then the Agent of the Department of Marine and Fisheries at such City shall be the Receiver for such district ; and if, at any time, there be not any Receiver appointed for any other district, then the principal officer of Customs at the principal port in such district, shall be the receiver for such district.

A Receiver acting in execution of his duties, in pursuance of this Act, shall have all the same powers and authorities as a principal officer of Customs or other person acting or appointed under the "Act respecting inquiries and investigations into shipwrecks and other matters," passed in the session held in the thirty-second and thirty-third year of Her Majesty's reign, chapter thirty-eight, and any person wilfully impeding a Receiver in the execution of his duty or making default in appearing or giving evidence before him, shall

be subject to the like penalties as if the Receiver were a principal officer of Customs or other person acting or appointed under the said Act.

*Vessels Wrecked or in Distress.*

5. Where any British or foreign vessel is wrecked, stranded or in distress at any place within the limits of Canada, the Receiver shall, upon being made acquainted with such stranding or distress, forthwith proceed to such place; and upon his arrival there he shall take the command of all persons present, and shall assign such duties and issue such directions to each person as he thinks fit for the preservation of such vessel, and of the lives of the persons belonging to or on board the same (in this Act referred to as shipwrecked persons,) and of the cargo, stores and tackle thereof, and the property of such persons, and of all parts of the vessel separated therefrom (which cargo, stores, tackle, property and parts are, in this Act, included under the expression "wreck)."

Any person disobeying such directions of the Receiver shall incur a penalty not exceeding two hundred dollars:

Provided always that nothing in this Act shall be construed to authorize the Receiver to take charge of any ship, cargo, or materials contrary to the expressed wish of the master or owner of such ship or cargo, or of their agents.

6. The Receiver may, with a view to the preservation of the vessel, or of the shipwrecked persons or wreck, do all or any of the following things, that is to say,—

- (1.) Require such persons as he thinks necessary to assist him:
- (2.) Require the master of any vessel near at hand, to give such aid with his men, or vessel as may be in his power:
- (3.) Demand the use of any waggon, cart, horses, tackle, ropes or appliances that may be near at hand:

And any person refusing, without reasonable cause, to comply with any such requestion or demand, so made as aforesaid, shall, for every day on which he refuses, incur a penalty not exceeding twenty dollars.

7. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, all persons may, for the purpose of rendering assistance to such vessel, or of saving the lives of the shipwrecked persons of any wreck, unless there is some public road equally convenient, pass and repass, either with or without carriages or horses, over any adjoining lands, without being subject to interruption by the owner or occupier,—so that they do as little damage as possible; and may also, on the like condition, deposit on such lands any wreck saved.



All damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the vessel or wreck in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is by this Act made recoverable; and the amount payable in respect thereof shall, in case of dispute, be determined in the same manner as the amount of salvage is by this Act, in case of dispute, directed to be determined: Provided, that no such compensation shall be recoverable in respect of damage to any gate, wall, fence or other obstruction which may have been unreasonably erected or placed by such owner or occupier so as to impede such passing, repassing or deposit.

If the owner or occupier of any land over which any person is hereby authorized to pass or repass does any of the acts following by himself or his servants, that is to say,

- (1.) Impedes or hinders such person from so passing or repassing, with or without carriages, horses and servants, by locking his gates, or refusing, upon request, to open the same, or otherwise howsoever; or
- (2.) Impedes or hinders the deposit of any wreck; or
- (3.) Prevents such wreck from remaining so deposited for a reasonable time until the same can be removed to a safe place of public deposit—

he shall for every such act incur a penalty not exceeding four hundred dollars.

8. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, and any person plunders, creates disorder, or obstructs the preservation of the vessel, or of the ship-wrecked persons or wreck, the Receiver may cause such person to be apprehended and kept in custody until he can conveniently be taken before a Justice of the Peace to be dealt with according to law; and may use force for the suppression of any such plundering, disorder or obstruction, and may command all Her Majesty's subjects to assist him in the use of such force; and if, when the Receiver or any person acting under his orders is engaged in the execution or the duties by this Act committed to the Receiver, any person resists such Receiver or person, and is killed, maimed or hurt by reason of such resistance, such Receiver and other person are hereby fully indemnified as well against Her Majesty as against every person so maimed or hurt, and the representatives of any person so killed.

9. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, any person not being a Receiver, or a person acting for or under the the orders of a Receiver, who, without the

leave of the master of such vessel, endeavours to board the same, may be repelled by force; and the master and any person under his orders so repelling such person by force are hereby indemnified for so doing.

10. Where a Receiver is not present, the following officers or persons in succession, each in the absence of the others in the order in which they are named, (that is to say,) any principal officer of customs, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, officer of inland revenue, sheriff, justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, or light house keeper employed by the Government of Canada, may do all matters and things by this Act authorized to be done by the Receiver, for the preservation of vessels, shipwrecked persons and wreck, with this exception, that, —with respect to any wreck, the delivery of which to the Receiver is hereby required, any officer or person so acting shall be considered as the agent of the Receiver, and shall place the same in the custody of the Receiver; and he shall not be entitled to any fees payable to Receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Any person acting under the order of an officer or person acting in pursuance of the provisions of this section shall for the purposes of this Act be deemed to be acting under the order of a Receiver.

#### *Wreck.*

11. Where any person takes possession of wreck within the limits of Canada, he shall, as soon as possible, deliver the same to the Receiver: Provided that the Minister of Marine and Fisheries may, if he thinks fit dispense with such delivery in the case of any wreck, upon such conditions, if any, as the said Minister thinks fit.

Any person taking possession of wreck within the limits of Canada, who—

- (1.) Fails to deliver the same to the Receiver, in pursuance of this section, or who
- (2.) In a case where the Minister has dispensed with such delivery upon any conditions, does not either comply with such conditions or deliver the wreck to such Receiver as soon as possible,—

shall forfeit any claim to salvage, and shall be liable to pay as a penalty double the value of such wreck, and a further sum not exceeding four hundred dollars.

12. Every Receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the custom house

nearest to the place where such wreck was found or was seized by him, or delivered to him, a description of the same and of any marks by which it is distinguished; and shall also transmit a similar description to the Minister of Marine and Fisheries, who may give such publicity to the same as he may see fit.

**13.** The owner of any wreck in the possession of the Receiver, upon establishing his claim to the same to the satisfaction of the Minister of Marine and Fisheries, within one year from the time at which such wreck came into the possession of the Receiver, shall, upon paying the salvage, fees and expenses due, be entitled to have such wreck or the proceeds thereof delivered up to him or his agent; and where any such wreck is proved, to the satisfaction of the Minister of Marine and Fisheries, to belong to a foreign owner, the Consul General in Canada of the country to which the owner of such wreck belongs, or any consular officer of that country authorized in that behalf by any treaty or arrangement with such country, shall, in the absence of the owner or his agent, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wreck.

**14.** With respect to the sale of wreck the following provisions shall have effect; that is to say,

(1.) Where in the opinion of the Receiver it is for the advantage of all parties to sell wreck in his custody or where such wreck consists of goods of a dangerous nature, he may sell the same; and the proceeds of such sale, after defraying the expenses thereof, shall be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold:

(2.) Where the owner of any wreck is known or has established his title to the same, but neglects to pay the salvage, fees or expenses due thereon for twenty days after notice in writing from the Receiver, the Receiver may sell such wreck, or a sufficient part thereof, and may, out of the proceeds of such sale, pay the salvage, fees and expenses due, and shall pay or deliver the surplus, if any, of the proceeds or of the wreck to the persons entitled to receive the same.

*Unclaimed Wreck.*

**15.** When one year has elapsed since a wreck came into the possession of a Receiver without any owner having established a claim to it, such wreck, if unsold, shall be sold by such persons and in such manner as the Minister of Marine and Fisheries may direct:—and the proceeds thereof, after payment of expenses, costs, fees and salvage, shall be paid over to the Receiver General, to form part of the Consolidated Revenue Fund of Canada.

16. Upon delivery of wreck or payment of the proceeds of wreck by a Receiver, in pursuance of the provisions of this Act, such Receiver shall be discharged from all liability in respect thereof; but such delivery or payment shall not prejudice or affect any question which may be raised by third parties concerning such wreck.

17. In any case where two or more persons claim any wreck or proceeds of wreck, of what value or amount soever, in the possession of a Receiver, any court sitting, and having jurisdiction in civil matters to the value or amount of the wreck or proceeds in question, in the district of such Receiver, may, on the application of such Receiver or of any of such persons, summon such person before it; and may hear and adjudicate upon their claims, and may make such order between the parties in respect thereof, and of the costs of the proceedings, as to such court may seem fit; and such order may be enforced in like manner as any order made in any suit brought in the same court.

*Marine Store Dealers.*

18. Every person dealing in, buying and selling any of the articles following, that is to say,—old anchors, cables, sails, junk, or iron, or marine stores of any kind, shall conform to the following regulations, in addition to those prescribed by section one hundred and nine of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's Reign, chapter twenty-one:—

- (1.) He shall have his name, together with the words "dealer in marine stores," distinctly painted, in letters of not less than three inches in length and two inches in breadth, on some conspicuous part of each warehouse, shop, store or place of deposit belonging to him:
- (2.) He shall keep a book or books fairly written, and shall enter therein an account of all such articles as he may from time to time become possessed of, and a statement in respect of each article, describing the character thereof and any marks thereon, and at the time at which and the person from whom he purchased or received the same, and a description of the business and place of abode of such person:
- (3.) He shall at all times, when required by the Receiver for the district in which he carries on business, whether or not the Receiver has a warrant for search or inspection, produce and deliver up to the Receiver every book kept in pursuance of the provisions of this Act, and shall allow such Receiver to inspect and take copies of the same:

And every person making default in observing the regulations aforesaid shall for the first offence incur a penalty of not more than forty dollars; and shall for every subsequent offence incur a penalty of not more than two hundred dollars.

*Offences in respect of Wreck.*

19. Every person who does within the limits of the Dominion of Canada any of the acts following ; that is to say,—

- (1.) Prevents or impedes or endeavors to prevent or impede any shipwrecked person in his endeavor to save his life, or prevents or impedes, or endeavors to prevent or impede any person in his endeavor to save the life of any shipwrecked person ;
- (2.) Prevents or impedes, or endeavors to prevent or impede the saving of any vessel which is wrecked, stranded, abandoned, or in distress ; or prevents or impedes, or endeavors to prevent or impede, any person in his endeavor to save such vessel ;
- (3.) Steals or maliciously destroys any wreck ; or
- (4.) Sells any vessel or wreck found within the limits of the Dominion not having a lawful title thereto,—

Shall be deemed to be guilty of felony, and on conviction thereof, shall be liable to be imprisoned in the Penitentiary for a term not exceeding seven years, nor less than two years, or to be imprisoned in any other gaol or place of imprisonment for any time less than two years, with or without hard labour.

20. Every person who does within the limits of the Dominion of Canada any of the acts following ; that is to say,—

- (1.) Boards any vessel which is wrecked, stranded or in distress, against the will of the master, unless the person so boarding is, or acts by command of the Receiver ;
- (2.) Assaults any Receiver or any person acting as a Receiver in the exercise of his duty for the preservation or assistance of any such vessel, or of wreck, or assaults any person acting by command of a Receiver in the exercise of his duty as aforesaid ;
- (3.) Prevents or impedes, or endeavors to prevent or impede the saving of any wreck ;
- (4.) Secrets any wreck, or defaces or obliterates the marks thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact that the same is such wreck, from any person entitled to inquire into the same
- (5.) Receives any wreck, knowing the same to be wreck, from any person other than the owner thereof or the Receiver, and does not within forty-eight hours inform the Receiver thereof ; or
- (6.) Offers for sale or otherwise deals with any wreck, knowing it to be wreck, not having a lawful title to sell or deal with the same ; or

(7.) Keeps in his possession any wreck, knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the Receiver,—

shall be deemed guilty of a misdemeanor, on conviction whereof he shall be liable to be imprisoned for any time not exceeding two years with or without hard labour; or of an offence against this Act, on summary conviction whereof, before any two Justices of the Peace, or any magistrate having the powers of two Justices of the Peace, he shall be liable to be imprisoned for a period not exceeding six months, or to pay a penalty not exceeding four hundred dollars.

21. Any person charged with felony or misdemeanor under this Act may be indicted and prosecuted, and the venue may be laid in any county or locality; and in any indictment or prosecution under this Act, for any felony or misdemeanor in respect of wreck, it shall not be necessary to lay the property in any person, or to identify the alleged wreck or part of any particular vessel or wreck coming from any particular vessel, or as the property of any particular person.

Any penalty, forfeiture or punishment, for any offence against this Act, not being hereby made a felony or misdemeanor, may be imposed, adjudged and recovered, on summary conviction, before any two Justices of the Peace, or any magistrate having the powers of two Justices of the Peace.

In any indictment or prosecution for receiving, secreting, disguising, defacing, obliterating marks on, or for the possession of, or for selling or dealing with any wreck (unless the accused shows that he was possessed of the same for more than twelve months before the date of the indictment or the commencement of the prosecution), it shall lie upon him to show that he did not know and had not the means of knowing the same to be such wreck, or that he was lawfully possessed of or entitled to sell or deal with the same; and in any indictment or prosecution for secreting, defacing, receiving, possessing, selling, dealing with or concealing the character of any wreck, evidence may be given, either before or after verdict, of any former conviction of the accused for any of the said offences. In any proceeding under this section the accused may, if he think fit, be sworn and examined as an ordinary witness in the case.

22. Where a Receiver suspects that any wreck is secreted or concealed by or wrongfully in the possession of any person, he may apply to any Justice of the Peace for a search warrant, and such Justice shall have power to grant such warrant; by virtue whereof it shall be lawful for the Receiver to enter, (and if need be by force) any house, building and place, whether enclosed or unenclosed, and

any vessel, and to search for, remove and detain and wreck there kept or secreted ; and if any wreck is discovered, and the person in whose possession and on whose premises the same is found, fails, on being summoned to appear before two Justices of the Peace, to prove to the satisfaction of such Justices that he was lawfully entitled to the possession of such wreck, he shall be liable to a penalty not exceeding eighty dollars for the first offence ; and for every subsequent offence shall be liable at the discretion of the Justices, either to a penalty not exceeding two hundred dollars or to imprisonment with hard labor for any period not exceeding three months ; but the Justices may, if they think fit, commit him for trial for a misdemeanor under this Act. If any such discovery as aforesaid is made in consequence of information given by any person to the Receiver, the informer shall be entitled, by way of salvage, to such sum not exceeding eighty dollars as the Receiver, under instructions from the Minister of Marine and Fisheries may allow.

*Salvage.*

23. Where services are rendered within the limits of the Dominion of Canada in saving life from any vessel, there shall be payable to the salvor by the owner of the vessel, freight, cargo, stores and tackle, a reasonable sum for salvage and expenses, in priority to all other claims, if any, for salvage ; and in cases where such vessel, stores, tackle and cargo, are destroyed, or the value thereof, with the freight, if any, is insufficient, after payment of the actual expenses incurred, to pay the amount of such salvage, the Minister of Marine and Fisheries may, in his discretion, award to the salvor, out of any funds at his disposal for that purpose, such remuneration as he thinks fit.

24. Where, within the limits of the Dominion of Canada, any vessel is wrecked or abandoned, stranded or in distress, and services are rendered by any person in assisting such vessel, and where services are rendered as aforesaid by any person in saving any wreck, there shall be payable to the salvor by the owner of such vessel or wreck, as the case may be, a reasonable amount of salvage, including expenses properly incurred.

*Procedure in Salvage.*

25. Disputes as to salvage, whether of life or property, shall, in Canada, be heard and determined as follows, and not otherwise, that is to say,—

- (1.) If either the amount claimed does not exceed one hundred dollars, or the value of the property liable or alleged to be liable for the salvage does not exceed two hundred and fifty dollars, or if the parties consent in writing, the dispute shall be heard and determined by the Receiver of the district where the ser-

vices were rendered or where the property liable is at the time of the making of the claim; and his award shall include fees and costs. But if any party feels aggrieved by the award of the Receiver aforesaid, the party so aggrieved may appeal to the Minister of Marine and Fisheries, within thirty days after the decision of the Receiver from which the appeal is made:— Provided always that the appellant shall within seven days after the cause of appeal has arisen, give notice to the other party and to the Receiver of his intention to appeal, and of the ground of such appeal:

- (2.) In other cases, the dispute may be heard and determined by any court having jurisdiction in civil matters to the amount claimed, or value of the property liable, in the place where the services were rendered, or where the property is at the time of making the claim;

And if in any suit or proceeding for salvage in any court the claimant recovers an amount less than the maximum amount which might be claimed before the Receiver, then, unless the court certify that such suit or proceeding was unfit to be determined by the Receiver, the claimant shall have no costs, charges or expenses incurred by him in the prosecution of his claim, and shall pay to the other party such costs, charges and expenses, if any, as the court may direct.

For the purposes of this section, the amount claimed shall mean the amount claimed in the proceeding or suit before the Receiver, or in the court in which the suit or proceeding is taken; and the value of the property liable shall mean the value of the property when first brought into safety by the salvors.

26. Any dispute as to salvage, where the services have been rendered and such dispute arises in Canada, may be heard and determined, on the application either of the salvor or of the owner of the property liable to the claim for salvage, or when the property is in the custody of the Receiver on his application; and where no proceedings have been brought by the salvor, the owner may make application as aforesaid to the Receiver or court having jurisdiction, according to the value of the property liable.

27. Where any dispute as to salvage arises in Canada, the Receiver of the district where the property liable is, shall, on the application of either party, appoint a valuer to value such property, and shall give copies of the valuation to both parties; and any copy of such valuation, purporting to be signed by the valuer, and to be certified as a true copy by the Receiver, shall be admissible as evidence in any subsequent proceeding, and shall, for the purpose of giving jurisdiction in salvage, be conclusive evidence of the value at the time of such valuation; and there shall be paid in respect of such valuation such fee, not exceeding the fees specified in the schedule to this Act,



as the Minister of Marine and Fisheries may from time to time direct.

**28.** A Receiver may seize any property found within his district and alleged to be liable for salvage; and may detain such property until either the salvage, fees and costs due thereon are ascertained and paid, or process is issued for the arrest or detention thereof by some competent court, or security is given to his satisfaction for such salvage, fees and costs.

Where the value of the property does not exceed two hundred and fifty dollars, any question as to the amount of the security to be given, or as to the sufficiency of the securities, may be determined by the Receiver; or where such value exceeds two hundred and fifty dollars, any such question may be determined, upon application either of the owner of the property of the salvors or any of them, or of such Receiver, by any court having, in the district of such Receiver, jurisdiction in civil matters to the value of the property in question.

If the property has not been valued, the value for the purposes of this section shall be determined by such Receiver, or by a valuer appointed by him as aforesaid.

Any security given for salvage in pursuance of this section may be enforced by a court competent to entertain a suit for such salvage, in the same manner as if bail had been given in such court; and where, under the provisions of this Act, the determination of disputes as to such salvage is to be made by a Receiver, any such security may be enforced in the manner aforesaid by any court competent to entertain a suit for such salvage, having jurisdiction in the district of such Receiver.

**29.** Where any dispute as to salvage arises before a Receiver under the provisions of this Act, the Receiver shall hear and determine the same; and if, after he has made and published his award, the salvage, fees and costs by him awarded to be paid, are not paid within fourteen days, he may sell the property liable for such salvage, fees and costs, or a sufficient part thereof, and out of the proceeds defray the expenses of the sale and the salvage, fees and costs awarded, and shall pay or deliver up the surplus, if any, to the owners of the property or other persons entitled thereto.

**30.** Where the aggregate amount of salvage payable in respect of any services has been finally determined by a Receiver or court or by admission or agreement, such amount may be apportioned and distributed as follows; that is to say,—

(1.) If the amount has been determined by a Receiver, the Receiver may apportion the same among the persons entitled

thereto in such manner as he thinks just, but the party aggrieved may appeal from his decision to the Minister of Marine and Fisheries :

- (2.) If the amount has been determined by any court having jurisdiction, such court may direct the amount to be apportioned among the persons entitled thereto in such manner as such court thinks just, and may appoint any person to carry the apportionment into effect ; and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be dealt with as the court may direct ; and may for the purposes aforesaid issue such orders as the court thinks fit :
- (3.) If the amount has been finally ascertained by admission or agreement, but a dispute arises or is apprehended as to the apportionment thereof among several claimants, the person liable to pay such amount may pay the same, if it does not exceed one hundred dollars, (or in any case if the claimants so agree) to a Receiver, or, if it exceeds one hundred dollars, into any court having jurisdiction ; and such Receiver or court shall receive and apportion the same, and shall grant to the person paying the same a certificate of the amount paid and of the services in respect of which it is paid ; and such certificate shall be a full discharge and indemnity to such person, and to all his property liable in respect of such services, against all persons parties to or bound by such admission or agreement.

31. Where any salvage, fees, charges or costs, in relation to salvage, are awarded or declared to be due by a Receiver or any court having jurisdiction in salvage, and the property liable, or the proceeds thereof, is or are under arrest in a different suit in a court not being the same court by which such salvage, fees, charges or costs have been awarded, then such salvage, fees, charges and costs shall be enforced against the property or proceeds so under arrest, by the court in which the same is or are under arrest.

*Fees of Receivers of Wreck.*

32. There shall be paid to every Receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the first schedule to this Act, such fees, chargeable as therein mentioned, and not exceeding the amounts therein mentioned, as may from time to time be directed by the Governor in Council ; and the Receiver shall, in addition to all other rights and remedies for the recovery of such expenses or fees, have the same rights and remedies which a salvor has in respect of salvage due to him ; and may, if the property in respect of which any such expenses or fees are due, is not under arrest in any court,

seize or detain such property until the same are paid, or until security is given for the same to his satisfaction.

Whenever any dispute arises in any part of Canada as to the amount payable to any Receiver in respect of expenses or fees, such dispute shall be determined by the Minister of Marine and Fisheries, whose decision shall be final.

All fees received by any Receiver appointed under this Act, in respect of any of the matters in the first schedule to this Act mentioned, may be retained by him for his own remuneration.

*Transitory Provisions.*

33. Any person committing an offence against this Act, which is also an offence against some other Act, may be prosecuted, tried, and, if convicted, punished under either Act; but no person shall be liable to be tried more than once for the same offence.

34. The jurisdiction conferred by this Act on any civil court may be exercised either by proceedings *in rem* or by proceedings *in personam*.

35. Nothing in this Act shall be construed to affect the jurisdiction of any Court of Vice-Admiralty in Canada in any matter or case, civil or criminal.

36. The Ministers of Customs and Inland Revenue may permit all goods saved from any vessel stranded or wrecked within the limits of the Dominion of Canada on its inward voyage to be forwarded to the port of its original destination, and all goods saved from any ship stranded or wrecked within the limits of the Dominion of Canada on its outward voyage to be returned to the port at which the same were shipped; taking such security for the due protection of the revenue in respect of such goods as they may think proper.

37. Chapter twenty-four of the Revised Statutes of New Brunswick, Part I, Title III, entitled: "Of Wrecked Property," and chapter seventy-eight of the Revised Statutes of Nova Scotia, Third Series, Part I, Title XXI, entitled: "Of Wrecks and Wrecked Goods," are hereby repealed, except only as to things done and rights acquired or proceedings commenced under either of them before the coming into force of this Act. Article five hundred and ninety of the Civil Code of Lower Canada is also hereby repealed.

38. Section ninety-eight of the Act of the legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, and intitled, "An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes," is hereby repealed, and the following substituted in its

stead, and shall be read and construed as the ninety-eighth section of the said Act :

" 98. Every person finding any spars, deals, saw-logs or timber or other non-perishable thing, not being wreck within the meaning of this Act, in the River St. Lawrence, or any river or water within the port of Quebec, or on the beach thereof, shall, within four days, if the same be found within the harbour of Quebec, and within fifteen days if the same be found within any other part of the port of Quebec, give notice thereof to the Harbour Master, under a penalty not exceeding forty dollars ; and shall in such notice given him a description of the thing found, with all the marks thereon : If, in the meantime, the master or owner claims the same he shall pay to the finder for his trouble such remuneration as may be fixed by the Trinity House of Quebec ; and the said Trinity House of Quebec may make and publish a tariff of salvage for deals, sawlogs and timber, found as aforesaid, and any person being in possession of any deals, sawlogs and timber found adrift, or on the beach of the said river or such water as aforesaid, shall, immediately upon the owner or the agent claiming the said property and tendering the sum fixed in such tariff as the salvage in the case, deliver up the said property to the said master or owner thereof, or his agent : and any person refusing so to deliver any such spars, deals, sawlogs or timber, or other non-perishable thing shall incur a penalty not exceeding four hundred dollars, nor less than twenty dollars, for such refusal, which shall be deemed a contravention of this Act ; and any suit for the said penalty may be heard and determined by the said Trinity House, under section sixty-six and sixty-seven of this Act."

39. The Act of the legislature of the late Province of Canada, passed in the twenty-second year of Her Majesty's reign, and intitled : "An Act to extend the powers and duties of the Trinity House of Quebec," and the seventh section of the Act of the said legislature passed in the session thereof held in the fourteenth and fifteenth years of Her Majesty's reign, intitled : "An Act to provide for defraying the expense of the River Police at Quebec," and the fifth section of the Act of the said legislature, passed in the session thereof held in the twenty-ninth and thirtieth years of Her Majesty's reign, intitled : "An Act to extend the powers of the Trinity House of Quebec," shall not hereafter apply to any effects, article or thing, being "wreck" within the meaning of this Act ; nor shall the Act of the said legislature passed in the session thereof, held in the twenty-seventh and twenty-eighth years of Her Majesty's reign, and intitled : "An Act to amend the Act passed in the twelfth year of Her Majesty's reign, relating to the Trinity House at Montreal," or the Act of the Parliament of Canada, passed in the session thereof, held in the thirty-second and thirty-third years of Her Majesty's reign, and

intituled : " An Act to amend the Act of the late Province of Canada, twelfth Victoria, chapter one hundred and fourteen. 'To consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes'" prevent or interfere with the provisions of this Act for the protection of life and property in wrecked vessels or any powers of the Receiver for the district including the city of Quebec, or the city of Montreal, under this Act ; and the powers vested in the said Trinity Houses by the said Acts, shall be exercised only by and with the consent of the said Receivers respectively, and in conjunction with either of them, if necessary to give effect to the said Acts and this Act.

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### FIRST SCHEDULE.

#### STATEMENTS FOR SALVAGE PURPOSES.

Statements to be made by the salvor and by the master or other person in charge of the property saved, respectively.

- (1.) The place, condition, and circumstances in which the said ship, cargo or property was at the time when the services were rendered for which salvage is claimed ;
- (2.) The nature and duration of the services rendered :  
And by the salvor,
- (3.) The proportion of the value of the said ship, freight, cargo, and property, and of the freight which he claims for salvage, or the value at which he estimates the said ship, cargo and property respectively, and the several amounts that he claims for salvage in respect of the same :
- (4.) Any other circumstances which he thinks relevant to the said claim :

And by the said master or other person in charge of the said ship, cargo, or property,

- (5.) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate ; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers :
- (6.) The name and place of business or residence of the freighter

(if any) of the said ship, and the freight to be paid for the voyage on which she then is :

- (7.) A general account of the quantity and nature of the cargo at the time the salvage services were rendered :
- (8.) The name and place of business or residence of the owner of such cargo and of the consignee thereof :
- (9.) The values at which the said master estimates the said ship, cargo and property, and the freight respectively, or if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest :
- (10.) The amounts which the master thinks should be paid as salvage for the services rendered :
- (11.) An accurate list of the property saved in cases where the ship is not saved :
- (12.) An account of the proceeds of the sale of the said ship, cargo or property, in cases where the same or any of them are sold :
- (13.) The number, capacities and condition of the crew of the said ship at the time the said services were rendered :
- (14.) Any other circumstances he thinks relevant to the matters in question.

## SECOND SCHEDULE.

### FEEs OF RECEIVERS.

Maximum fees to be charged by receivers in addition to expenses properly and necessarily incurred.

	\$	cts.
1. For every enquiry instituted by a Receiver with respect to any shipping casualty, whatever may be the number of persons examined, a fee not exceeding...	8	00
To be charged on the vessel or cargo in respect of which the examination is instituted.		
2. For furnishing copy of evidence per one hundred words.....	20	
3. For every salvage dispute heard and determined by the Receiver, in which the claim does not exceed one hundred dollars, or the property saved does not exceed two hundred and fifty dollars, a sum not exceeding.....	5	00
To be charged on the property saved.		
4. For all other cases in which salvage disputes are heard		

- and determined by the Receiver..... 10 00  
To be charged on the property saved.
5. For wreck received or taken by the Receiver into his custody, a percentage of five per cent. upon the value thereof.  
But so that in no case shall the whole amount of percentage so payable exceed eighty dollars.  
To be charged on the wreck or derelict.
6. For every sale of wreck conducted by a Receiver, a sum not exceeding one per cent. on the value thereof.  
To be charged on the proceeds of sale.
7. For copies of certificates of valuation, when the value of the property is under three thousand dollars, a sum not exceeding..... 4 00  
In other cases..... 8 00  
To be charged on the property valued.
8. In cases where any services are rendered by a Receiver in respect of any vessel in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage; that is to say,  
If such vessel with her cargo, equals or exceeds in value three thousand dollars the sum of eight dollars for the first, and the sum of four dollars for every subsequent day during which the Receiver is employed on such services; but if such vessel, with her cargo, is less in value than three thousand dollars, one-half of the above-mentioned sum. But, so that in no case shall the whole amount exceed one hundred dollars.  
To be charged on such vessel or articles.

## MARITIME COURT ACT.

### 40 VICTORIA.

#### CHAP. 21.

An Act to establish a Court of Maritime Jurisdiction in the Province of Ontario.

[Assented to 28th April, 1877.]

**W**HEREAS it is expedient to establish a Court of Maritime Jurisdiction in the Province of Ontario: Therefore Her

Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

1. Save as by this Act excepted, all persons shall, after this Act comes into force, have, in the Province of Ontario, the like rights and remedies in all matters (including cases of contract and tort, and proceedings *in rem* and *in personam*) arising out of or connected with navigation, shipping, trade or commerce on any river, lake, canal or inland water, of which the whole or part is in the Province of Ontario, as such persons would have in any existing British Vice-Admiralty Court, if the process of such Court extended to the said Province.

2. For the enforcement of such rights and remedies there is hereby constituted, in the Province of Ontario, a Superior Court of Maritime Jurisdiction, under the name of "The Maritime Court of Ontario," which shall be a Court of Record and shall, save by this Act excepted, have as to the matters aforesaid, all such jurisdiction as belongs in similar matters within the reach of its process, to any existing British Vice-Admiralty Court.

2. In any matter referred to in the first section, but arising within reach of the process of the Vice-Admiralty Court at Quebec, the Court shall have the same jurisdiction as any existing British Vice-Admiralty Court has under like circumstances, in any like matter arising beyond the reach of its process.

A dredge is not a ship or vessel within the Maritime Jurisdiction Act of 1877, and the Maritime Court of Ontario has no jurisdiction *in rem*.

The Nithsdale, 15 L. J., N. S. 268; M. C., McKenzie.

3. And whereas many of the ships engaged in navigating the waters aforesaid are registered in ports in the Province of Quebec, the jurisdiction of the Court in respect of claims touching the ownership, possession, employment, or earnings of ships, shall extend to the case of a ship registered in a port in the Province of Quebec but navigating the waters aforesaid.

4. No right or remedy *in rem* given by this Act only, shall be enforced as against any subsequent *bona fide* purchaser or mortgagee of a ship, unless the proceedings for the enforcement thereof be begun within ninety days from the time when the same accrued.

3. The Court shall not have jurisdiction, save as aforesaid in any matter to which the process of any existing British Vice-Admiralty Court extends, nor shall the Court have jurisdiction in any prize cause, or in any criminal matter, or in any case of breach of the Regulations and Instructions relating to Her Majesty's Navy, or arising out of droits of Admiralty, or out of any seizure for breach of the Revenue, Customs, Trade or navigation laws, or out of any violation



of the Act of the Imperial Parliament known as "The Foreign Enlistment Act," or of the laws relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels.

4. The principal seat of the Court shall be at Toronto, but sittings of the Court may be held at any city, town or place within the Province of Ontario.

5. The Governor in Council may appoint any Judge of any Superior or County Court in Ontario, or any Barrister in Ontario of not less than seven years standing, to be the Judge of the Court.

6. The Judge shall hold office during good behaviour; but shall be removable by the Governor General on address of the Senate and House of Commons; he shall not be eligible to sit or vote in the House of Commons, under the penalties provided by "An Act further securing the independence of Parliament" (thirty-first Victoria, chapter twenty-five), nor shall he vote at any election of a member of the said House.

7. The Judge shall receive no fees, but shall receive a salary of six hundred dollars per annum free and clear from all deductions whatsoever, and *pro rata* for any shorter time than a year, which salary shall be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, in like manner as the salaries of other Judges.

8. The Judge may, with the approval of the Governor in Council, from time to time, make, alter and rescind general rules for establishing and regulating the practice, pleading, writs, procedure, costs and fees to practitioners and officers in suits instituted under this Act, and for the effectual working of this Act; and such rules may extend to any matter of procedure or otherwise, not provided for by this Act but for which it may be found necessary to provide, in order to insure the proper working of this Act and the better attainment of the objects thereof; and every such rule, not being inconsistent with the express provisions of this Act, shall have force and effect as if herein enacted: Provided always, that copies of all such rules shall be, as soon as may be, laid before both Houses of the Parliament of Canada, and entered on the records of the Court, and published in the Canada Gazette; Provided also, that it shall be lawful for the Governor in Council, by proclamation published in the Canada Gazette, or for either House of Parliament by any resolution passed at any time within thirty days after such rules and orders have been laid before Parliament to suspend any rule or order made under this Act; and such rule or order shall thereupon cease to have force or effect until the end of the then next Session of Parliament.

9. In default of other provision either by this Act or under general rules made in pursuance of this Act, the practice, pleading, writs and

procedure in force at the time of its abolition in the Instance side of the High Court of Admiralty in England shall, so far as applicable, apply and extend to proceedings instituted under this Act.

**10.** The Judge shall, from time to time, frame and submit for the approval of the Minister of Justice, a list of persons of nautical or engineering, or other technical skill and experience to act as assessors in the Court; and shall cause the approved list to be published in the Canada Gazette, and every person named in the approved list shall attend the Court, under such circumstances and in such rotation, and subject to such regulations, and shall receive such fees, as shall be provided by or under general rules.

**11.** The Governor in Council may, from time to time, appoint one or more Judges of any County Court in Ontario, or barristers of not less than seven years' standing in Ontario, to be a Surrogate Judge or Surrogate Judges of the said Court.

**12.** A Surrogate Judge shall have such of the powers of the Judge as may be conferred by his commission.

**13.** Any judicial act begun or partly proceeded with by a Surrogate Judge may, under general rules, be proceeded with or completed by the Judge.

**14.** Whereas until the practical working of this Act has been developed by experience it is inexpedient to make permanent provision as to the tenure of office or the salary of Surrogate Judges; therefore—

2. A Surrogate Judge shall hold office during pleasure, but his appointment shall not be vacated by a vacancy in the office of the Judge.

3. He may, if resident elsewhere than in Toronto, receive emoluments to be, from time to time, fixed by the Governor in Council, raised out of funds provided by suitors' fees, payable under a tariff to be, from time to time, fixed by the Governor in Council.

4. Copies of the tariff shall be, as soon as may be, laid before both Houses of the Parliament of Canada, and entered on the records of the Court, and published in the Canada Gazette.

5. The fees payable by suitors under the tariff shall be paid over, by the officer appointed to collect them, to the Receiver-General, and shall form part of the Consolidated Revenue Fund; and thereout shall be paid the emoluments of the Surrogate Judge.

**15.** The Governor in Council may appoint a Registrar, Marshal, Deputy Registrars and Deputy Marshals, and Examiners and other necessary officers for the Court, with such of the powers belonging to Registrars and Marshals of British Vice-Admiralty Courts, and such

other powers for the effectual working of this Act as may be prescribed by general rules.

16. The Judge, any Surrogate Judge, the Registrar, any Deputy Registrar, and any person who has power to administer oaths and affirmations in matters pending in the Supreme Court or the Exchequer Court of Canada, shall have power to administer oaths and affirmations in relation to any matter pending in the Court; and any person who shall wilfully swear or affirm falsely in any such matter shall be guilty of perjury.

17. Every Judge or Surrogate Judge appointed in pursuance of this Act, shall, previously to his execution and duties of his office, take before a Judge of any Superior or County Court in Ontario, the following oath:—

“I, \_\_\_\_\_ do sincerely and solemnly swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as Judge (or as a Surrogate Judge) of the Maritime Court of Ontario. So help me God.”

18. All persons entitled to act as Barristers or Advocates in any Superior Court in any Province in Canada may act as such in the Court; and all persons entitled to act as Solicitors, or Attorneys-at-Law in Ontario may practice as Proctors or Solicitors in the Court, and all persons acting as Barristers or Advocates, or practicing as Proctors or Solicitors in the Court, shall be officers thereof.

19. There shall be an appeal to the Supreme Court of Canada from all decisions of the Court having the force and effect of a definitive sentence or final order.

20. In default of other provision either by this Act or under general rules made by virtue of this Act, or by virtue of the Acts relating to the Supreme and Exchequer Courts, the practice, procedure and powers as to costs and otherwise of the Supreme Court in other appeals shall, so far as applicable, and, unless the Supreme Court shall otherwise order, apply and extend to appeals under this Act.

21. So much of this Act as relates to the appointment of the Judge, Surrogate Judges and officers, and the making of general rules and tariffs, shall come into force on a day to be appointed by proclamation of the Governor in Council, and the residue of this Act shall come into force on a subsequent day to be also appointed by proclamation of the Governor in Council.

22. This Act may be cited as “The Maritime Jurisdiction Act, 1877.”

In force so far as relates to appointment of Judge, Surrogate Judges and officers and making of rules and tariff, from July 9, 1877.

Canada Gazette, Vol. II., P. I.

Remaining part in force from 18th day of February, 1878.

Canada Gazette, Vol. II., P. 785.

In case sittings of the Maritime Court of Ontario, or of any Judge thereof, are appointed to be held in any city, town or place in which a Court-house is situated, the Court or Judge shall, for all purposes connected with the said Maritime Court and its process, have the same authority as the County Court or a Judge thereof, in regard to the use of the Court-house, Gaol and other buildings or apartments set apart in the county for the administration of justice.

41 Vic., C. 3, S. 1.

#### 41 VICTORIA, CHAP. 1.

An Act respecting the Maritime Court of Ontario.

[Assented to 16th April, 1878.]

**H**ER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. All decrees and orders of the Maritime Court of Ontario, or of the judge or a surrogate judge thereof, whereby any moneys are payable to any person, shall have the same effect as decrees of the Court of Chancery in Ontario, and all powers of enforcing its decrees possessed by the said Court of Chancery or any judge thereof, with respect to matters depending in that court, are hereby conferred on the Maritime Court of Ontario with respect to matter therein depending, and all remedies possessed by those to whom money is payable under a decree of the said Court of Chancery, are hereby conferred on persons to whom any moneys are payable by orders or decrees of the Maritime Court of Ontario or of the judge or a surrogate judge thereof.

2. Any new writ or other process necessary or expedient for giving effect to the foregoing provisions of this Act may be issued from the Maritime Court of Ontario, in such form as the judge of the said court, with the approval of the Governor in Council, may from time to time direct.

3. The marshal or deputy marshal of the court, as the case may be, shall have, as to the execution of any such new writ or other process, similar powers to those now possessed by sheriffs in the Province of Ontario as to the execution of similar writs issued from the said Court of Chancery.

## Powers of Banks Respecting Vessels and Marine Securities.

40. The bank shall not, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation of any lands or tenements, or of any ships or other vessels, nor upon the security or pledge of any share or shares of the capital stock of the bank, or of any goods, wares or merchandise, except as authorized in this Act; nor shall the Bank, either directly or indirectly, deal in the buying and selling or bartering of goods, wares or merchandise, or engage or be engaged in any trade whatever, except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as appertains to the business of banking; nor shall the bank, either directly or indirectly purchase or deal in any share or shares of the capital stock of the bank, except where it is necessary to realize upon any such share or shares held by the Bank as security for any pre-existing and matured debt. 34 V., c. 5, s. 40, as amended by 38 V., c. 17, s. 1.

41. The Bank may take, hold and dispose of mortgages and hypothecations upon personal as well as real property, by way of additional security for debts contracted to the Bank in the course of its business; and the rights, powers and privileges which the Bank is hereby declared to have or to have had in respect of real estate mortgaged to it, shall be held and possessed by it, in respect of any personal estate which may be mortgaged or hypothecated to it. 34 V., c. 5, s. 41.

43. For the purpose of this Act, the words "goods, wares and merchandise," when used herein, shall be held to comprise, in addition to the things usually understood thereby, timber, deals, boards, staves, saw-logs, and other lumber, petroleum, crude oil, and all agricultural produce and other articles of commerce; and the words "warehouse receipt" when used herein shall be held to mean any receipt given by any person, firm or company for any goods, wares or merchandise in his or their actual, visible and continued possession, as bailee or bailees, in good faith, and not as of his or their own property, and shall comprise receipts from any person who is the keeper of any harbor, cove, pond, wharf, yard, warehouse, shed, storehouse, tannery, mill or other place in Canada, for goods, wares or merchandise being in the place or in one or more of the places so kept by him, whether such person is engaged in other business or not, and shall also comprise specifications of timber. The words "bill of lading," when used herein, shall comprise all receipts for goods, wares or merchandise, accompanied by an obligation to transport the same from the place where they were received to some other place, whether by land or water, or partly by land and partly by water, and by any mode of carriage whatever; and the words "ship" or "shipment" shall be

held to mean the delivery of any article for transport as aforesaid. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 45.) But see s. 47 as to case where the owner is himself a warehouseman, &c.

**46.** The Bank may acquire and hold any warehouse receipt or bill of lading as collateral security for the payment of any debt incurred in its favor in the course of its banking business; and the warehouse receipt or bill of lading so acquired shall vest in the Bank, from the date of the acquisition thereof, all the right and title of the previous holder or owner thereof, or of the person from whom such goods, wares and merchandise were received or acquired by the Bank if the warehouse receipt or bill of lading is made directly in favor of the Bank instead of to the previous holder or owner of such goods, wares and merchandise. And if the previous holder of such warehouse receipt or bill of lading be the agent of the owner of the goods, wares and merchandise mentioned therein, within the meaning of the fifty-ninth chapter of the Consolidated Statutes of the late Province of Canada (which is contained in Schedule "A" appended to this Act, and which, as respects such meaning shall apply to all the Provinces of Canada,) then the Bank shall be vested with all the right and title of the owner thereof, subject to his right to have the same re-transferred to him, if the debt as security for which they are held by the bank, be paid: Provided always, that the Bank shall not acquire or hold any warehouse receipt or bill of lading to secure the payment of any bill, note or debt, unless such bill, note or debt be negotiated or contracted at the time of the acquisition thereof by the Bank, or upon the understanding that such warehouse receipt or bill of lading would be transferred to the Bank, but such bill, note or debt may be renewed or the time for the payment thereof extended without affecting such security. And on shipment of any goods, wares and merchandise for which a Bank holds a warehouse receipt, it may surrender such receipt and receive a bill of lading in exchange therefor; or on the reception of any goods, wares and merchandise for which it holds a bill of lading, it may surrender such bill of lading, store such goods, wares and merchandise, and take a warehouse receipt therefor; or ship them or part of them, and take another bill of lading therefor. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 46.)

**47.** If any person granting a warehouse receipt or bill of lading is engaged in the calling, as his ostensible business, of keeper of a yard, cove, wharf or harbor, or of warehouseman, miller, saw-miller, maltster, manufacturer of timber, wharfinger, master of a vessel, or other carrier by land or by water, or by both, curer or packer of meat, tanner, dealer in wool, or purchaser of agricultural produce, and is at the same time the owner of the goods, wares and merchandise mentioned in such warehouse receipt or bill of lading, any such warehouse receipt or bill of lading, and the right and title of the bank thereto and to the goods, wares and merchandise mentioned therein, shall be as valid

and effectual as if such owner, and the person making such warehouse receipt, or bill of lading, were different persons.

2. In the event of the non-payment at maturity of any debt secured by a warehouse receipt or bill of lading, the Bank may sell the goods, wares and merchandise mentioned therein, or so much thereof as will suffice to pay such debt with interest and costs returning the overplus, if any, to the person from whom such warehouse receipt or bill of lading, or the goods, wares and merchandise mentioned therein, as the case may be, were acquired; but such power of sale shall be subject to the provisions hereinafter made. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 47.)

48. If any miller, maltster, or packer or curer of pork grants a warehouse receipt for any cereal grains or hogs which may be manufactured into flour or malt, pork, bacon or hams, respectively, while held thereunder, such warehouse receipt shall vest in any Bank which shall be or become the lawful holder thereof, all the right and title to such manufactured article, which such Bank acquired under such warehouse receipt to the article so manufactured and described in such warehouse receipt, and the Bank shall continue to hold the same and all such right and title, for the same purposes and upon the same conditions as those upon which it previously held such material. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 48.)

49. All advances made on the security of any bill of lading or warehouse receipt, shall give and be held to give to the Bank making such advances a claim for the repayment of such advances on the goods, wares or merchandise therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor, any law, usage or custom to the contrary notwithstanding. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 49.)

50. No sale without the consent in writing of the owner, of any timber, boards, deals, staves, saw-logs or other lumber, shall be made under this Act until, nor unless, notice of the time and place of such sale shall have been given by a registered letter, mailed in the post office to the last known address of the pledger thereof, at least thirty days prior to the sale thereof; and no goods, wares or merchandise other than timber, boards, deals, staves, saw-logs or other lumber, shall be sold by the Bank under this Act without the consent of the owner, until, or unless, notice of the time and place of sale has been given by a registered letter, mailed in the post office to the last known address of the pledger thereof, at least ten days prior to the sale thereof; and every such sale of any article mentioned in this section, without the consent of the owner, shall be made by public auction after a notice thereof by advertisement, stating the time and place thereof, in at least two newspapers published in or nearest to the place where the sale is to be made; and if such sale be in the Prov-

ince of Quebec, then at least one of such newspapers shall be a newspaper published in the English language, and one other such newspaper shall be a newspaper published in the French language. 43 V., c. 22, s. 7. (Substituted for 34 V., c. 5, s. 50.)

### 35 VICTORIA, CHAP. 8.

[Assented to 14th June, 1872.]

7. Any Bank advancing money in aid of the building of any ship or vessel, shall have the same right of acquiring and holding security upon such ship or vessel while building and when completed, either by way of mortgage, hypothec, hypothecation, privilege or lien thereon or purchase or transfer thereof, as individuals have in the Province wherein such ship or vessel is being built, and for that purpose shall be authorized to avail itself of all such rights and means of obtaining and enforcing such security, and shall be subject to all such obligations, limitations and conditions as are by the law of such Province conferred or imposed upon individuals making such advances.

## MARINE CRIMINAL LAW.

### CHAP. 22 OF 32-33 VIC.

Injuries to sea and river banks, and to works on rivers, canals, &c.

34. Whosoever unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys any sea bank, sea wall, dyke or aboteau, or the bank, dam, or wall of or belonging to any river, canal or drain, reservoir, pool or marsh, whereby any land or building is or is in danger of being overflowed or damaged, or unlawfully and maliciously throws, breaks or cuts down, levels, undermines, or otherwise destroys any quay, wharf, jetty, lock, sluice, flood-gate, weir, tunnel, tow-path, drain, water-course, or other work belonging to any port, harbour, dock, or reservoir, or on or belonging to any navigable river or canal, or any dam or structure erected to create or utilize any hydraulic power, or any embankment for the support thereof, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

35. Whosoever unlawfully and maliciously cuts off, draws up, or removes any piles, stone or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbor,



dock, quay, wharf, jetty or lock, or unlawfully and maliciously opens or draws up any floodgate or sluice, or does any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

## CHAP. 22 OF 32-33 VIC.

48. Whosoever unlawfully and maliciously sets fire to, casts away, or in anywise destroys any ship or vessel, whether the same be complete or in an unfinished state, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labor, and with or without solitary confinement,

49. Whosoever unlawfully and maliciously sets fire to, or casts away or in anywise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten, or may underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

50. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to, cast away, or destroy any ship or vessel under such circumstances that if the ship or vessel were thereby set fire to, cast away or destroyed, the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

51. Whosoever unlawfully and maliciously places or throws in, into, upon, against or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working-tools, goods, or chattels, whether or not any explosion takes place, and whether or not any injury is effected, is guilty of felony, and shall be liable to be imprisoned in

the penitentiary for any term not exceeding fourteen and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor and with or without solitary confinement.

**52.** Whosoever unlawfully and maliciously damages, otherwise than by fire, gunpowder or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or render the same useless, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years; or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

**53.** Whosoever unlawfully masks, alters, or removes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel, or boat into danger, or unlawfully and maliciously does any thing tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

**54.** Whosoever unlawfully and maliciously cuts away, casts adrift, removes, alters, defaces, sinks or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink or destroy, or in any other manner unlawfully and maliciously injures or conceals any boat, buoy, buoy-rope, perch or mark used or intended for the guidance of seamen, or the purpose of navigation, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

**55.** Whosoever makes fast any vessel or boat to any such buoy, beacon or sea mark, shall, on conviction thereof before any Justice of the Peace, forfeit a sum not exceeding ten dollars, and in default of payment, shall be liable to be imprisoned in any gaol or place of confinement for any term not exceeding one month.

**56.** Whosoever unlawfully and maliciously cuts or loosens any boom on any river, or other water, or breaks or cuts loose any raft or crib of timber or saw-logs, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment for not less than two years, or both, in the discretion of the court.

57. Whosoever unlawfully and maliciously destroys any part of the ship or vessel in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement

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## CHAP. 20 OF 32-33 VIC.

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Carrying Bowie-knives, Daggers &c., about the person.

72. Whosoever carries about his person any bowie-knife, dagger or dirk, or any weapon called or known as iron knuckles, skull-crackers or slung shot, or other offensive weapons of a like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale publicly or privately, any such weapon, shall be liable on conviction thereof, before any Justice of the Peace, to a fine not less than ten and not more than forty dollars, and in default of payment thereof, to be imprisoned in any other gaol or place of confinement for a term not exceeding thirty days.

73. Whosoever is found in any of the seaport towns or cities in Canada, carrying about his person any sheath-knife, shall be liable on conviction thereof before any Justice of the Peace, to the like pains and penalties as in the next preceding section: Provided, however, that nothing herein contained shall apply to seamen or riggers when occupied or engaged in their lawful trade or calling.

74. Whosoever is charged with having committed any offence against the provisions of the last two preceding sections of this Act, may be tried and dealt with in pursuance of the Act of the present Session "respecting the prompt and summary Administration of Criminal Justice in certain cases."

75. It shall be the duty of the court or Justice before whom any person is convicted under the three last preceding sections of this Act, to impound the weapon for carrying which such person is convicted, and to cause the same to be destroyed.

76. All prosecutions under the four next preceding sections of this Act shall be commenced within one month from the commission of the offence charged.

## CHAP. 22 OF 32 AND 33 VIC., 1869.

As to larceny in ships, wharfs, &c.

65. Whosoever steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, or steals any goods or merchandise from any dock, wharf or quay, adjacent to any such haven, port, river, canal, creek or basin, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

66. Whosoever plunders or steals any part of any ship or vessel in distress or wrecked, stranded or cast on shore, or any goods, merchandise or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement; and the offender may be indicted and tried either in the district, county or place in which the offence has been committed or in any district, county or place next adjoining, or in which he has been apprehended or is in custody.

67. If any goods, merchandise or articles of any kind belonging to any ship or vessel in distress or wrecked, stranded, or cast on shore, are found in the possession of any person, or on the premises of any person, with his knowledge, and such person being taken or summoned before a Justice of the Peace, does not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice be forthwith delivered over to the use of the rightful owner thereof, and the offender shall, on conviction of such offence before the Justice, at the discretion of the Justice, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept to hard labor for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty dollars, as to the Justice may seem meet.

68. If any person offers or exposes for sale any goods, merchandise or articles whatsoever, unlawfully taken or reasonably suspected so to have been taken from any ship or vessel in distress or wrecked,

stranded or cast on shore, --in every such case any person to whom the same are offered for sale, or any officer of customs, or excise or peace officer may lawfully seize the same, and shall, with all convenient speed, carry the same or give notice of such seizure to some Justice of the Peace; and if the person who has offered or exposed the same for sale, being summoned by such justice does not appear and satisfy the justice that he came lawfully by such goods, merchandise or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the offender shall, on conviction of such offence by the justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labor, for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty dollars as to the justice seems meet.

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#### CHAP. 21 OF 32-33 VIC., 1869.

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**88.** If the keeper of any warehouse, or any forwarder, common carrier, agent, clerk, or other person employed in or about any warehouse, or if any other factor or agent, or any clerk or other person employed in or about the business of such factor or agent, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of any goods or other property as having been received in his warehouse, or in the warehouse in or about which he is employed, or in any other manner received by him or by the person in or about whose business he is employed, before the goods or other property named in such receipt or acknowledgment have been actually delivered to him as aforesaid, with intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then unknown, --or if any person knowingly and wilfully accepts or transmits or uses any such false receipt or acknowledgment, the person giving and the person accepting, transmitting or using such receipt or acknowledgment, are severally guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years but not less than one year.

**89.** If any merchandise has, in the name of the owner or of any other person, been shipped or delivered to the keeper of any ware-

house or to any other factor, agent or carrier, to be shipped or carried and the consignee afterwards advances any moneys or gives any negotiable security to such owner or other person, then, if after any such advance the said owner or other person for his own benefit and in violation of good faith, and without the consent of such consignee first had and obtained, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between such owner or other person aforesaid and such consignee at the time of or before such money being so advanced or such negotiable security being so given, with the intent to deceive, defraud or injure such consignee, the owner or other person aforesaid, and each and every other person knowingly and wilfully acting and assisting in making such disposition for the purpose of deceiving, defrauding or injuring such consignee, is or are guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, but not less than one year; but no person shall be subject to prosecution under this section, who had, before making a disposition of the merchandise aforesaid, paid or tendered to the consignee the full amount of any advance made thereon.

**90.** Any miller, warehouseman, factor, agent, or other person, who, after having given, or after any clerk or person in his employ has to his knowledge given, as having been received by him, in any mill, warehouse, vessel, cove or other place, any receipt, certificate or acknowledgment, for grain, timber, or other goods or property, which can be used for any of the purposes mentioned in the Act passed in the thirty-first year of Her Majesty's reign and intituled: "An Act respecting Banks," or any person, who, after having obtained any such receipt, certificate, or acknowledgment, and after having endorsed or assigned it to any bank, or person, afterwards and without the consent of the holder, or, endorsee in writing, or the production and delivery of the receipt, certificate, or acknowledgment, wilfully alienates, or parts with, or does not deliver to such holder or endorsee of such receipt, certificate or acknowledgment, the grain, timber, goods, or property therein mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, or in any other gaol or place of confinement for any term less than two years, but not less than one year: Provided that nothing in this section shall prevent the offender from being indicted and punished for larceny, instead of misdemeanor, if, as being a bailee, his offence amounts to larceny.

**91.** If any offence in the last three preceding sections mentioned be committed by the doing of anything in the name of any firm, company or co-partnership of persons, the person by whom such thing

is actually done, or who connives at the doing thereof, shall be deemed guilty of the offence, and not any other person.

**92.** No misdemeanor against any of the sixteen last preceding sections of this Act shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace; and if upon the trial of any person under any of the said sections, it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanor under the said sections.

**98.** Whosoever by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any railway, or in any steam or other vessel, is guilty of a misdemeanor, and shall be liable to be imprisoned in any common gaol or house of correction, with or without hard labor, for any period not exceeding six months.

**109.** Every person dealing in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead, and other marine stores, shall conform to the following regulations:

First,—He shall not by himself or his agent, purchase any old marine stores from any person under the age of sixteen years, and on conviction of any such offence before a Justice of the Peace, shall be liable to a penalty of four dollars for the first offence, and of six dollars for every subsequent offence.

Secondly,—He shall not purchase or receive into his stores, premises or places of deposit, any old marine stores, except in the day time, between sunrise and sunset, under a penalty of five dollars for the first offence, and of seven dollars for every subsequent one; and if any old marine stores which had been stolen are found secreted in the premises of any person purporting to be a dealer in such stores, such person shall be guilty of a misdemeanor, and shall be punishable therefor in any manner by law prescribed for misdemeanor.

**111.** Whosoever wilfully and unlawfully conceals or appropriates any timber, masts, spars, saw-logs, or other description of lumber, which having been adrift in any river or lake, is found so adrift, in any such river or lake, or cast ashore on the bank or beach of any such river or lake, or wilfully and unlawfully defaces or adds any mark or number, on any such article or thing, or makes any false or counterfeit mark thereon, or refuses to deliver up to the proper owner thereof or to the person in charge thereof on behalf of such owner, any such article or thing, is guilty of a misdemeanor punishable in like manner as simple larceny.

**112.** If any person brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by

fraud or false pretences in any other county in such manner that the stealing, embezzling converting or obtaining it in like manner in Canada, would, by the laws of Canada, be felony or misdemeanor; then the bringing such property into Canada, or the having it in possession therein, knowing it to have been so stolen, embezzled or converted, or unlawfully obtained, shall be an offence of the same nature, and punishable in like manner as if the stealing, embezzling, converting or unlawfully obtaining such property had taken place in Canada, and such person may be tried and convicted in any district, county or place in Canada, into or in which he brings such property, or has it in possession.

### CHAP. 5 OF 34 VICT.

**64.** If any Miller, Warehouseman, Master of a vessel, Forwarder, Carrier, Wharfinger, Keeper of a Cove, Yard, Harbor or other place for storing timber, deals, staves, boards or other lumber, curer or packer of pork, or dealer in wool, Factor, Agent or other person, or any clerk or person in his employ, knowingly and wilfully gives to any person any writing purporting to be a receipt for, or an acknowledgment of any cereal grain, timber, deals, staves, boards or other lumber, or other goods, wares, merchandise or property, as having been received in his Warehouse, Vessel, Cove, Wharf or other place, or in any such place about which he is employed, or as having been in any other manner received by him or the person in or about whose business he is employed, before the goods or property named in such receipt, acknowledgment or writing have been actually so received by or delivered to him or his employer, with the intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then to him unknown; or if any person knowingly and wilfully accepts or transmits or uses any such false receipt, acknowledgment or writing, the person giving and the person accepting, transmitting or using such false receipt, acknowledgment or writing, shall severally be guilty of a misdemeanor.

**65.** The wilfully making any false statement in any such receipt, acknowledgment or certificate as in the forty-sixth section of this Act mentioned, or the wilfully alienating or parting with, or not delivering to the holder or indorsee any cereal grain, goods, wares or merchandise mentioned in such receipt, acknowledgment or certificate, contrary to the undertaking therein expressed or implied, shall be a misdemeanor.



66. If any offence in either of the two next preceding sections mentioned be committed by the doing of anything in the name of any firm, company or co-partnership of persons, the person by whom such thing is actually done, and any person who connives at the doing thereof, shall be deemed guilty of the offence, and not any other person.

67. Any person convicted of a misdemeanor under this Act shall, on conviction, be liable to be imprisoned in any gaol or place of confinement for any term not exceeding two years, in the discretion of the Court before which the conviction shall be had.

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## ORDER ON PASSENGER STEAMERS.

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### 36 VICTORIA.

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#### CHAP. 57.

An Act to provide for keeping order on board Passenger Steamers.

[Assented to 23rd May, 1873.]

**H**ER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The master or officer in command of any steamer may refuse to receive on board thereof any person who is drunk or disorderly, or who causes, or is in a condition to cause, annoyance or injury to passengers on board ; or if any such person be on board, the master or officer may put him on shore at any convenient place.

2. If any of the following offences are committed on board any vessel registered in Canada propelled wholly or in part by steam, and carrying passengers to or from any place or places in Canada, to or from any place or places out of Canada, not being in the United Kingdom, or between any places in Canada (which vessels alone are in this Act included in the term "steamers"), that is to say,—

(1.) If any person being drunk or disorderly has been on that account refused admission into a steamer by the owner or any person

in his employment, and nevertheless persists in attempting to enter the steamer ;

(2.) If any person being drunk or disorderly on board a steamer is requested by the owner or any person in his employment to leave the same at any place in Canada, being a reasonably convenient place to leave the same, and does not comply with such request :

(3.) If any person on board a steamer, after warning by the master or other officer of the steamer, molests or continues to molest any passenger :

(4.) If any person, after having been refused admission into a steamer by the owner or any person in his employment on account of the steamer being full, and having had the amount of his fare, if he paid it, returned or tendered to him, nevertheless persists in attempting to enter the steamer :

(5.) If any person on board a steamer, without reasonable excuse (proof whereof shall lie on him), fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare on steamers,—

Then and in every such case, the person so offending shall for every such offence incur a penalty not exceeding ten dollars, but this liability shall not prejudice the recovery of any amount payable by him as fare.

3. If any person on board a steamer, without reasonable excuse (proof whereof shall lie on him) does, or causes to be done, anything in such manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of her, or otherwise in the execution of their duty on or about the steamer, he shall, for every such offence, incur a penalty not exceeding one hundred dollars.

4. It shall be lawful for the master or other officer of any steamer and for all persons called by him to his assistance, to detain any offender against any of the provisions of the preceding sections of this Act, whose name and addresses are unknown to such master or officer, and to convey such offender with all convenient despatch before some Justice or Justices of the peace, to be dealt with according to law.

5. Any penalty imposed by this Act shall belong wholly to the Crown, and may be recovered with costs, before any one Justice of the Peace, if it does not exceed ten dollars, and before any two Justices of the Peace, or any magistrate having the powers of two Justices of the Peace, under the "Act respecting the duties of Jus-

tices of the Peace out of Sessions, in relation to summary convictions and orders," as amended by any subsequent Act or Acts, such Justices of the Peace having jurisdiction either in the place where the offence was committed, or if committed while the steamer is under way, then in the place where it shall next stop; and any offender conveyed before such Justice or Justices, or magistrate under the next preceding section, shall be dealt with as if arrested, and brought before them on his or their warrant, under the said Act.

### 36 VICTORIA, CHAP. 65.

An Act for the better protection of Navigable Streams and Rivers.

[Assented to 23rd May, 1873.]

**W**HEREAS it is expedient to provide for the better protection of navigable streams and rivers; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. From and after the passing of this Act, no owner nor tenant of any saw-mill, nor any workman therein, nor other person or persons whosoever, shall throw or cause to be thrown, or suffer or permit to be thrown, any sawdust, edgings, slabs, bark or rubbish of any description whatsoever, into any navigable stream or river, either above or below the point at which such stream or river ceases to be navigable.

2. Any person or persons violating the preceding section shall be liable, for the first offence, to a fine of not less than twenty dollars, and for the second and each subsequent offence to a fine of not less than fifty dollars, — which fine shall be recoverable summarily in the same manner as provided for the recovery of penalties by "The Fisheries Act."

3. It shall be the duty of the several fishery officers to examine and report on the condition of the navigable streams and rivers under this Act from time to time, and to prosecute all parties contravening the terms of this Act; and such officers shall, for enforcing the provisions of this Act, have and exercise all the powers conferred upon them for like purposes by "The Fisheries Act."

4. Provided always, that when it can be shown to the satisfaction of the Governor in Council that the public interest would not be injuriously affected thereby, the Governor in Council shall have power,

from time to time, by Proclamation in the Canada Gazette, to declare any such stream or river, or part or parts thereof, exempted from the operation of this Act, in whole or in part, and shall also have power from time to time to revoke the same.

## FISHERIES ACT.

### 31 VIC., CHAP. 60.

#### SALMON FISHERIES.

7. Salmon shall not be fished for, caught or killed, between the thirty-first day of July and the first day of May, in the Provinces of Ontario and Quebec, and in the river Restigouche, and between the fifteenth day of August, and the first day of March in the Province of New Brunswick; Provided always, that it shall be lawful to fish for, catch and kill salmon with a rod and line, in the manner known as fly surface fishing, between the thirteenth day of April and the thirty-first day of August, in the Provinces of Ontario and Quebec, and between the first day of March and the fifteenth day of September, in the Province of New Brunswick:

2. Salmon shall not be fished for, caught or killed in the Province of Nova Scotia, save as provided and authorized by the laws now in force in that Province:

3. Foul or unclean salmon shall not be at any time caught or killed:

4. Salmon fry, parr and smolt, shall not be at any time fished for, caught or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed; but where by accident in nets lawfully used for other fish, they shall be liberated alive at the cost and risk of the owner of the fishery, on whom shall, in every case, devolve the proof of such actual liberation:

5. Meshes of nets used for capturing salmon, shall be at least five inches in extension, and nothing shall be done to practically diminish or nullify their size:

6. The use of nets or other apparatus which capture salmon shall, except in the Provinces of Nova Scotia and New Brunswick, be con-

lined to tidal waters, and any Fishery Officer may determine the length and place of each net or other apparatus used in any of the waters of the Dominion : provided that nothing contained in this section shall prevent the use of nets for catching salmon in the lakes of the Province of Ontario, nor preclude the Minister from authorizing, by special license or lease, the capture of salmon by nets in fresh water streams :

7. The Minister, or any Fishery Officer authorized to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this Act : and above the actual limit so to be laid down, it shall be unlawful, without the special fishery lease or license above provided for, to fish for salmon, except with a rod and line, in the manner known as fly surface fishing, under a penalty not to exceed one hundred dollars, and imprisonment in default of payment for any term not exceeding two months :

8. All nets, or other lawful appliances which capture salmon, shall be placed at distances of not less than two hundred and fifty yards apart, without intermediate fishing materials of any kind being set or used in and about any other part of the stream ; and drifting for salmon shall be illegal :

9. Any Fishery Officer may prescribe either in writing or orally on sight, if deemed necessary, a further distance apart to be left between salmon nets, or other fishing apparatus, and their dimensions and extension ; but gill or float nets shall not be used to lengthen, extend or enlarge any other kind of fishery :

10. No salmon shall be captured within two hundred yards of the mouth of any tributary, creek or stream which salmon frequent to spawn :

11. Except in the manner known as fly surface fishing with a rod and line, salmon shall not be fished for, caught or killed by any artificial pass or salmon leap, nor in any pool where salmon spawn :

12. Except under the authority and for the special purpose provided for in this Act, no one shall take, buy, sell, destroy, use or possess any salmon roe, nor injure any spawning bed.

#### LAKE AND RIVER TROUT FISHERY.

8. It shall not be lawful to fish for, catch or kill any kind of trout (or "lunge") in any way whatever between the first day of October and the first day of January ; and no one shall, at any time, fish for, catch or kill trout by other means than angling by hand with hook and line, in any inland lake, river or stream, except in tidal waters ; Provided always, that as affecting the waters of the Province of Ontario, such prohibitions shall apply only to the kind known as "speckled trout :

2. Nothing in the above clause shall prevent the use of small sized trout for the *bona fide* purpose of baiting traps, nor affect the taking and using the same by fishermen as bait for codfishing in tidal waters, nor subject them to penalty if by accident in *bona fide* fishing for herrings or white-fish by means of nets, trout shall become enclosed or taken.

## WHITE FISH AND SALMON TROUT FISHERY.

9. It shall not be lawful to fish for or catch white-fish in any manner between the nineteenth day of November and the first day of December, nor by means of any kind of seine, between the thirtieth day of May and the first day of August, in the Province of Ontario, or between the thirty first day of July and the first day of December in the Province of Quebec, nor shall the fry of the same be at any time destroyed.

2. Gill nets for catching salmon trout or white-fish, shall have meshes of at least five inches extension measure; and gill nets shall not be set within two miles of any seining ground:

3. Seines for catching white-fish shall have meshes of not less than four inches extension measure.

## BASS AND PICKERAL FISHERY.

10. Close-seasons for bass, pike, pickeral (*doree*), maskinonge and other fish, may be fixed by the Governor in Council to suit different localities.

## POSSESSION OF FISH.

11. No one shall, without lawful excuse, the proof of which shall devolve wholly on the party charged, buy, sell or possess any fish named in this Act, or parts thereof, caught or killed during seasons when and by means whereof catching or killing the same is prohibited by law:

2. It shall be the duty of every customs officer, excise officer, police officer or constable, clerk of a market or other party in charge of any market place in any village, town or city, to seize and forfeit on view to his own proper use, or gift, any fish enumerated in this act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means; but every such seizure and appropriation, with the date, place and circumstance thereof, shall be duly reported together with the name, residence and calling of the person in whose possession such fish was found, to the Fishery Officer having jurisdiction over the district within which such seizure, forfeiture and appropriation have taken place.

## CONSTRUCTION OF FISHWAYS.

12. Every dam, slide, or other obstruction across or in any stream where the Minister may determine it to be necessary for the public interest that a fish-pass should exist, shall be provided by the owner or occupier with a durable and efficient fishway, to be maintained in practical and effective condition, in whatever place and of whatever form and capacity will admit of the passage of fish through the same, (which place, form and capacity any Fishery Officer may, by written notice determine) under a penalty of four dollars for each day during which any such obstruction remains unprovided with a fishway, after three days' notice in writing to the owner or occupier thereof :

2. Fishways shall be kept open and unobstructed and be supplied with a sufficient quantity of water to fulfil the purposes of this enactment, during such times as may be required for any Fishery Officer :

3. The Minister may authorize the payment of one-half of the expenses incurred by such owner or occupier in constructing and maintaining any fishway :

4. Should it be expedient to procure the construction of any fishway pending proceedings against any owner or occupier for the penalty imposed by this Act, the Minister may give directions to make and complete the same forthwith, and to enter upon the premises with the necessary workmen, means and materials, and may recover from the owner or occupier the whole expense so incurred by action before any competent tribunal.

5. No person shall injure or obstruct any fishway, nor do anything to deter or hinder fish from entering and ascending or descending the same, nor injure or obstruct any authorized barrier.

## GENERAL PROHIBITIONS.

13. Whosoever fishes for, takes, catches or kills fish in any water, or along any beach, or within any fishery limits described in any lease or license, or places, uses, draws or sets therein any fishing gear or apparatus, except by permission of the occupant under such lease or license for the time being, or disturbs or injures any fishery, shall incur a penalty not exceeding one hundred dollars with costs, or imprisonment not exceeding two months, and the forfeiture of fishing apparatus so used, and all fish taken or caught : and any Fishery Officer or any such lessee or licensee may, upon his own view, forthwith seize and remove any net or apparatus so used in trespass, to be afterwards dealt with according to law : Provided always, that the occupation of any fishing station or waters so leased or licensed for the express purpose of net fishing shall not interfere

with the taking of bait used for codfishing, nor prevent angling for other purposes than those of trade and commerce :

2. Seines, nets or other fishing apparatus, shall not be set in such a manner or in such places as to obstruct the navigation with boats and vessels ; and no boats or vessels shall be permitted to destroy or wantonly injure in any way, any seines, nets or other fishing apparatus lawfully set :

3. Stakes or other timbe placed for fishing purposes in any water shall be removed by the user within forty-eight hours after last using the same, or at the expiry of the fishir ; season :

4. The main channel or course of any stream shall not be obstructed by any nets or other fishing apparatus ; and one-third of the course of any river or stream, and not less than two-thirds of the main channel at low tide, in every tidal stream shall always be left open, and no kind of fishing apparatus or material shall be used or placed therein ; provided that weirs used exclusively for catching eels, and the usage of mill-dams for catching eels, shall be subject to interference only in cases where, and at times when, they injure other fisheries, or by completely barring any passage, shall deprive other weirs of a share in the run of eels ; and such place, time and circumstances may be determined by any Fishery Officer :

5. No net or other device shall be so used as entirely to obstruct the passage of fish to and from any of the waters of the Dominion by any of the ordinary channels connecting such waters, or debar their passage to and from accustomed resorts for spawning and increasing their species :

6. The catching, killing or molesting of fish when passing or attempting to pass through any fishway, or fish-pass, or in surmounting any obstacle or leaps—the use of any invention to catch, kill or molest fish in the mill-heads and water courses appurtenant thereto, are hereby forbidden :

7. Bag-nets and trap-nets and fish-pounds are prohibited, except under special licenses for capturing deep-sea fishes other than salmon :

8. It shall not be lawful to fish for, catch or kill salmon, trout (or "lunge") of any kind, maskinonge, winnoniche, bass, bar-fish, pickerel, white-fish, herring or shad by means of a spear, grapnel hooks, negog or nishagans : Provided, the Minister may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time are specified in the license or lease, and may permit spearing in certain localities :



9. No person shall fish for, catch, kill, buy, sell or possess the young of any of the fish named in this Act, or in any regulation or regulations under it :

10. Seines for bar-fish shall have meshes of not less than three inches extension measure .

11. Fishery Officers may determine or prescribe the distance between each and every fishery, and shall forthwith remove any fishery which the owner neglects or refuses to remove, and such owner shall be moreover liable for a breach of this Act, and for the cost and damages of removing the same :

12. Every fascine fishery with a box-tray (*coffre*), instead of pound, shall have across the outside end of such box (*coffre*) a wire covering or a net work, the meshes of which shall be at least one inch square ; but this shall not apply to eel wires during autumn :

13. Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small rivers :

14. From the time of low water nearest six of the clock in the evening on every Saturday, to the time of low water nearest six of the clock in the morning on every Monday, in tidal waters, and from six of the clock in the evening on every Saturday to six of the clock in the morning of the following Monday, in fresh water,—seines, nets, or other apparatus used for catching fish shall be so raised or adapted as to admit to the free passage of fish through, past, or out of the same, for the purpose of affording, a free pass from six of the clock on every Saturday evening to six of the clock on every following Monday Morning ; and during this close time it shall be unlawful to catch fish by such means : and any fish so taken, caught or killed, together with the nets or other apparatus used, shall be forfeited, in addition to the penalties imposed by this Act.

#### INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

14. Whoever throws overboard ballasts, coal, ashes, stones or other prejudicial or deleterious substances, in any river, harbour or roadstead, or any water where fishing is carried on, or throws overboard, or lets fall upon any fishing bank or ground, or leaves, or deposits, or causes to be thrown, left or deposited upon the shore, beach or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish, or of marine animals, or leaves decayed, or decaying fish in any net or other fishing apparatus, shall incur for any such offence a fine not exceeding one hundred dollars, or imprisonment for not more than two months ; and every person so doing, whether master or servant, and the master or owner of any vessel or boat from which such

ballast, or offals or other prejudicial substance are thrown, shall severally become liable for each offence: Provided always, that it shall be lawful to bury such remains, or offals ashore, beyond high water mark, and at establishments situated inside of the mouth of rivers, for carrying on deep sea fisheries, to drop the same into perforated boxes or inclosures built upon the beach, or under stage-heads, in such manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any Fishery Officer.

2. Lime, chemical substances or drugs, poisonous matter, (liquid or solid), dead or decaying fish; or any other deleterious substance, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this Act; and saw-dust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding one hundred dollars: Provided always, that the Minister shall have power to exempt from the operation of this sub-section, wholly or from any portion of the same, any stream or streams in which he considers that its enforcement is not requisite for the public interest:

3. Whoever at any time between the first day of June and the thirtieth day of September, of any year, kindles, makes or places any fire in or near any wood, trees, brushwood or any wild or uncultivated land, at any place north of the River or Gulf of St. Lawrence, to the east or north of the Saguenay River, or any of the islands below or to the eastward of Red Island, within the said river or gulf, whereby the fire spreads or extends through standing trees, brushwood or scrub, to a distance exceeding one arpent, shall, for such offence, incur a penalty not exceeding fifty dollars, and shall besides be responsible to the Crown, or whoever may be the owner of the land, for all damages occasioned by such fire: Provided, that nothing herein contained shall prevent proprietors or those having licenses to cut timber or wood from burning the wood, trees or brushwood on their own land, or otherwise using fire to clear their lands without injury or prejudice to their neighbors.

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### 32 AND 33 VIC. CHAP. 29.

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**136.** When any felony punishable under the laws of Canada has been committed within the jurisdiction of any Court of Admiralty in Canada, the same may be dealt with, inquired of and tried and

determined in the same manner as any other felony committed within that jurisdiction.

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## STEAMBOAT INSPECTION ACT.

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42 VIC., CHAP. 35.

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An Act to amend and consolidate the Acts respecting the inspection of Steamboats, and the examination and licensing of Engineers employed on them.

[Assented to 17th May, 1882.]

For the greater security of life and property on board steamboats navigating the waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### EXTENT AND APPLICATION OF ACT.

1. This Act may be cited for all purposes as "The Steamboat Inspection Act, 1882," and shall extend and apply to the whole Dominion of Canada, including Manitoba and the Northwest Territories and Keewatin.

2. This Act shall be construed as being passed in amendment of the Act thirty-first Victoria, chapter sixty-five, intituled "An Act respecting the Inspection of Steamboats, and for the greater safety of passengers by them," as amended by the Acts thirty-second and thirty-third Victoria, chapter thirty-nine; thirty-sixth Victoria, chapters seven and fifty three; thirty-seven Victoria, chapter thirty; fortieth Victoria, chapter eighteen, and forty-fourth Victoria, chapter twenty-one, which are hereby superseded and repealed (except as hereinafter provided) with every other Act, enactment or provision inconsistent with this Act, — and as being a consolidation of the amendments hereby made portions of the said Acts which are herein reenacted, and of such orders in Council made under them as are herein incorporated, all of which shall be construed as declaratory of the existing law; and all appointments made and all things

lawfully done under the provisions of law then in force, shall remain valid, unless and until it is otherwise ordered by or under this Act, and all proceedings commenced under them may be continued and completed, as if this Act had not been passed, only the amendments hereby made having effect as new law.

3. In this Act the word "steamboat" includes any vessel used in navigation or afloat on navigable water, and propelled or moveable wholly or in part by steam, the word "owner" includes the lessee or charterer of any such vessel; and the word "year" means the calendar year, commencing on the first day of January, and ending on the thirty-first day of December.

4. This Act shall not apply to steamboats belonging to Her Majesty the Queen, nor to steamboats registered in Great Britain and Ireland or in any foreign country, and plying between any port or place in the Dominion of Canada:

(2.) And all steam yachts, used exclusively for pleasure or private use without hire or remuneration of any kind, all tug boats, all steamboats carrying freight only (hereinafter called freight boats) and under one hundred and fifty tons gross, and all steamboats used only for fishing purposes or the carrying of fish, and under one hundred and fifty tons gross, and steam dredges and elevators or vessels of like kind, shall be exempt from the requirements of this Act, except as regards the inspection of their boilers and machinery, to which they shall be subject at least once in each year, and oftener if required, under the same provisions and penalties for neglect as other steamboats, and except also as to the obligation to carry one life-buoy hereinafter imposed on all steamboats.

5. The Governor in Council may direct that any steamboat not registered in the Dominion, but employed in the Dominion of Canada in carrying mails, passengers or troops, shall be subject to the provisions of this Act.

#### APPOINTMENT AND QUALIFICATION OF INSPECTORS.

6. The Governor in Council shall, from time to time, appoint at each of such places, and to act respectively within such local limits, as he may find advisable, within the Dominion of Canada, a skilled person or skilled persons competent to inspect the boilers and machinery employed in steamboats, who shall not be interested in the manufacture of steam engines, boilers or other machinery belonging to steamboats, and whose duty it shall be to make such inspection as hereinafter prescribed, and to give to the owner or master two of the certificates of such inspection,—and also a skilled person or skilled persons competent to inspect the hulls and equipment of steamboats, who shall not be interested in the building or construction of hulls of steamboats, or of any article or thing hereinafter mentioned as part of

the equipment required by this Act for steamboats, or properly belonging to or connected with such equipment according to the intent of this Act, and whose duty it shall be to make such inspection, and to give triplicate certificates of such inspection :

(2.) In this Act the expression "boilers and machinery" includes the steam engine or engines, and every part thereof or thing connected therewith, employed in propelling the steamboat, and any donkey or pony engine used on board, and the boiler or boilers for supplying steam thereto, and the furnaces, chimneys, flues, safety and blow-off valves, gauges, braces, stays, pipes, steam pumps, and all other apparatus and things attached to or connected therewith or used with reference to any such engine or under the care of the engineer; and the expression "hull and equipment" includes the hull and every part thereof, masts, sails and rigging when the steamboat carries them, life-boats and other boats and the tackle and apparatus for lowering or hoisting them, the apparatus, other than steam fire engines, for preventing or extinguishing fires, anchors and cables, windlasses and capstans, fire buckets, compasses, axes, lanterns, and all other articles and things necessary for the navigation and safety of the steamboat and not under the care of the engineer; the word "Inspector" in any provision in the following sections means a person appointed to inspect the "boilers and machinery" of steamboats, when and so far as such provision applies to anything included in the expression, or a person appointed to inspect the "hulls and equipment" of steamboats, when and so far as the provision applies to anything included in the expression last mentioned; the word "boiler" means a boiler of or intended for a steamboat, and includes boilers when the steamboat has more than one, and the word "boilers" means "boiler" when she has only one, and the word "hull" includes the equipment unless the context is inconsistent with such construction; and the word "certificate" means one of the duplicates or triplicates of the certificate given by the Inspectors or Inspector, as the case may be.

7. No person shall be appointed an Inspector of boilers and machinery of steamboats unless nor until he has passed a satisfactory examination before the Board of Steamboat Inspection, as to his knowledge on the subject of boilers and machinery of steamboats, and the working of the same; or an Inspector of the hulls and equipment of such vessels, unless he has passed a satisfactory examination as to his competency for the office, before a board of three practical shipbuilders to be appointed by the Governor in Council, or is a certified surveyor of a recognized society for the classification of shipping; nor shall he be appointed an Inspector for either purpose unless he has received from the chairman of the Board, or from the said practical shipbuilders (as the case may be) a certificate in writing that he has satisfactorily passed such examination, or is a certified surveyor as aforesaid :

(2.) Provided always, that all Inspectors appointed before the passing of this Act shall continue in office as Inspectors of boilers and machinery until removed under this Act :

(3.) Every such Inspector, before entering upon his duties as such, shall take and subscribe an oath, before any person duly authorized to administer an oath, well, faithfully and impartially to execute the duties assigned to him by this Act.

8. The Inspectors shall form a Board, to be called the "Board of Steamboat Inspection," of whom the Governor shall name the chairman ; three of the members shall form a quorum, and the chairman shall have the right to vote, and in case of an equal division he shall also have a casting vote ; and the minutes of the proceedings of the Board shall be kept by him :

(2.) The Board shall meet at least once every year at such place as they may agree upon, and may make rules and regulations for their own conduct, and for the uniform inspection of steamboats, the selection of ports of inspection, and granting licenses to engineers, and for such other purposes as may be necessary under this Act, and may, from time to time, repeal, alter or add to such rules and regulations or make others in their stead ; and such rules and regulations shall come into force after they have been approved by the Governor in Council, but not before ; and copies of the minutes of the proceedings of the Board, certified by the chairman, shall be transmitted to the Minister of Marine and Fisheries ; provided that such rules and regulations made before this Act comes into force shall remain in force until repealed or amended under it :

(3.) Provided always, that in the Provinces of Manitoba and British Columbia, and in the Northwest Territories and the District of Keewatin, the Minister of Marine and Fisheries may, if, and when he sees fit, dispense with the appointment of an Inspector of hulls and equipment ; and in such case and in case of the non-appointment of such Inspector in any Inspection District, or of vacancy in the office therein, the said Minister may, by Departmental Order, assign the duties of such Inspector to the Inspector of boilers and machinery, or such other person as he may temporarily employ, who shall then and so long as such order remains in force, have all the powers and perform all the duties hereby assigned to the Inspector of hulls and equipment, under the like obligations and like penalties in case of default : the forms of certificate being altered to suit the case.

#### INSPECTION GENERALLY.

9. The chairman of the Board of Steamboat Inspection may, at any time, inspect or examine the hull, boiler and machinery of any steamboat, and if he suspects any Inspector of having neglected his

duty in relation to such steamboat, he may call a meeting of the Board to investigate the case; and the result of every such investigation shall forthwith be communicated in writing to the Minister of Marine and Fisheries, for the information of the Governor in Council.

10. The master or owner of every steamboat liable to inspection under this Act, shall cause the boiler and machinery and the hull and equipment thereof, to be inspected at least once every year, and shall deliver to the chief officer of Customs at the port where such inspection is made, or at which such steamboat shall arrive next after such inspection, where it has not been made in such port, one of the certificates thereof; and for every neglect to cause such inspection to be made, and a certificate thereof to be delivered to the proper officer of Customs, such master or owner shall incur a penalty of four hundred dollars, and such steamboat shall be liable for the same and chargeable therewith; and every such certificate unless sooner revoked shall be good for a period of twelve months from the date thereof, or for such less period as may be stated by the Inspector in the certificate.

11. The master, owner or engineer of every steamboat, or the person in charge thereof, shall at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery, or boiler thereof, or any part of any or either of the same, is in any material degree injured, strained or weakened, report such occurrence to the Inspector by whom the same was last inspected, or to the proper Inspector at the port or place where the steamboat is, or first arrives after such event occurs; and in case of omission to give such notice the owner of the steamboat shall forfeit to Her Majesty two hundred dollars for every day during which such omission continues; and if the injury be to the machinery or boiler or any part of the same, the license of the engineer shall be revoked.

12. Any Inspector may, at all times when inspecting, visiting or examining any boilers and machinery or the hull of any steamboat, ask of any or all of the owners, officers or engineers of such steamboat, or other person on board thereof and in charge or appearing to be in charge of the same, or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that may have happened thereto, as he may think fit; and every such person shall fully and truly answer every such question so put to him respectively, to the best of his knowledge and ability; and every person refusing to answer or falsely answering such question or preventing any such inspection or obstructing any Inspector in the same, shall, by so acting, incur a penalty of forty dollars.

13. Any Inspector of Steamboats is hereby empowered to demand of the owner or master of any steamboat being inspected by him the production of the certificate of registry of such steamboat; and it

shall thereupon be the duty of such owner or master to produce and exhibit the same to such Inspector.

14. When the Inspector finds it necessary to open up the hull of a vessel for the purpose of examining her condition the expense incurred thereby shall be chargeable to the owner of such vessel.

15. The Inspector may require that the engine and machinery under inspection by him, be put in motion; and any Inspector shall be carried free of expense on any steamboat which he shall desire to inspect while under way, and during such period as may be necessary, for such inspection, and for his return to the port at which he embarked on such steamboat for such purpose, or for his disembarkation at any port at which such steamboat touches on her voyage.

16. If the Inspector who inspects any steamboat in the manner required by this Act, approves the hull and equipment of such steamboat, he shall sign a certificate according to the form A in the schedule of this Act, and triplicates of such certificate, signed by the Inspector of hulls and equipment, shall be delivered by him to the Inspector of boilers and machinery for the same district, who, if he has then inspected and approved the boilers and machinery of the steamboat and has also satisfied himself that the certificate of the Inspector of hulls and equipment is true and correct as to the said equipment and as to the number of passengers the steamboat may lawfully carry, and as to all the particulars mentioned in the said form, and that the equipment is sufficient and in accordance with the requirements of this Act, shall sign the certificate in triplicate and deliver two of such triplicates to the owner or master of the steamboat, who shall deliver one triplicate to the chief officer of Customs as aforesaid, and the other he shall cause to be posted up, framed and protected by glass, in some conspicuous part of the steamboat for the information of the public; and the Inspector of boilers and machinery shall retain the other triplicate for the purposes of this Act:

(2.) Except that if the steamboat is one of which the boiler and machinery only is subject to inspection under this Act, the Inspector of boilers and machinery shall sign a certificate in the form B in the said schedule, in duplicate, and deliver the duplicates to the master or owner of any steamboat, who shall deliver one to the chief officer of Customs and cause the other to be posted up in some conspicuous part of the steamboat for the information of the public:

(3.) Any matter in dispute arising under this or any other sections of this Act, between an Inspector or the Board of Inspection and the master or owner of any steamboat and also any dispute between an Inspector or the Board of Inspection and an engineer, may be referred by either party to the Minister of Marine and Fisheries, who shall finally decide the same:



(4) Each Inspector shall keep a register of the inspections and certificates made and granted by him, in such form and with such particulars respecting them as the Inspection Board shall from time to time require, and shall furnish copies thereof to the Board when required.

INSPECTION OF BOILERS AND MACHINERY.

17. An Inspector may, whenever he deems it necessary so to do, and some one of them shall at least once in every year, subject the boiler of every steamboat to a test by hydrostatic pressure, and shall satisfy himself by examination and experimental trials, that such boiler is well made, of good and substantial metal; the limit of such pressure shall not exceed one hundred and fifty pounds to the square inch in the case of a boiler made of iron plates, or one hundred and ninety pounds to the square inch in case of a boiler made of steel plates; and the owner of the steamboat shall provide the necessary hand pump and apparatus for such test, to be worked by the crew of the steamboat; and no Inspector shall make or deliver to the owner or master of any steamboat, any such certificate as is mentioned in the sixteenth section of this Act, without having first subjected the boiler of such steamboat to such test by hydrostatic pressure:

(2) Before subjecting a boiler to a test by hydrostatic pressure, it shall be opened up for inspection, the man hole doors and mud plates removed, and the outside and inside of the boiler cleaned, the furnace grates removed and the furnace swept out clean, so that satisfactory and efficient inspection can be made; when bulkheads are so placed as to prevent a close examination of the plates of the boiler, they shall be removed. The owner or master of the steamboat shall see that these requirements are complied with before applying for inspection:

In any case in which the test is not satisfactory, the defects must be made good and the boiler retested satisfactorily, before a certificate shall be granted; and

When the outside of the bottom of a boiler cannot be otherwise perfectly inspected, the boiler shall be lifted for inspection once at least in every four years:

(3) In subjecting boilers made of iron plates to the hydrostatic test aforesaid, the Inspector shall assume one hundred pounds to the square inch as the maximum pressure allowable as a working power for a new boiler forty two inches in diameter, made of the best refined iron, at least one quarter of an inch thick, in the best manner and of the quality herein required, and shall rate the working pressure of all iron boilers, whether of greater or less diameter, according to this standard; and in all such cases the test applied shall exceed the

working pressure allowed in the ratio of one hundred and fifty pounds to one hundred, using the water in such test at a temperature not exceeding sixty degrees Fahrenheit :

(4) In subjecting boilers made of steel to the hydrostatic test aforesaid, the Inspectors shall assume one hundred and twenty five pounds as the maximum pressure allowable as a working power for a new boiler forty two inches in diameter, made in the best manner, of the best quality of steel plates, at least one quarter of an inch thick, with all the rivet holes drilled in place, the plates being then taken apart and the burrs removed, the longitudinal seams in the shell being fitted with double butt steel straps cut across the grain of the plate, and each of five eighths the thickness of the plates they cover, and all the seams being at least double riveted and having at least seventy per cent, of the strength of the solid plate, and all the flat surfaces stayed in the best manner and all the seams double rivetted, and they shall rate the working pressure of all steel boilers so made, whether of greater or less diameter, according to this standard ; and in all such cases the test applied shall exceed the working pressure allowed for such boilers in the ratio of one hundred and ninety pounds to one hundred and twenty five pounds, using the water in such tests at a temperature not exceeding sixty degrees Fahrenheit :

(5) But if the Inspector is of opinion that any boiler, whether made of iron or steel plates, by reason of its construction or material, will not safely allow so high a working pressure as that hereinbefore specified for each such description of boiler respectively, he may, for reasons to be stated specifically in his certificate, fix the working pressure of such boiler at less than two thirds of the test pressure :

(6) And these rules shall be observed in all cases, unless the proportion between such boilers and cylinders, or some other cause, renders it manifest that their application would be unjust, in which case the Inspector may depart from these rules if it can be done with safety ; but in no case shall the working pressure allowed exceed the proportion hereinbefore mentioned, as compared with the hydrostatic test :

(7) The external working pressure to be allowed on circular furnaces and flues subjected to such pressure, when the longitudinal joints are welded or made within a butt strap, shall be determined by the following formula :

The product of 90,000 multiplied by the square of the thickness of the plate in inches, divided by the length of the flue or furnace in feet plus, multiplied by the diameter in inches, will be the allowable working pressure per square inch in pounds, provided it does not exceed that found by the following formula :

The product of 8,000 multiplied by the thickness of the plate in inches, divided by the diameter of the furnace or flue in inches, will be the allowable working pressure per square inch in pounds,

The length of the furnace to be used in the first formula being the distance between the rings if the furnace is made with rings; and that one of the two formula which gives the lowest pressure being the one by which the Inspector shall be guided:

(8) On flat surfaces the allowable working pressure shall not exceed six thousand pounds to each executive square inch of sectional area of the stays supporting it. The pressure to be allowed on plates forming flat surfaces shall be that found by the following formula:—

$$C \times (T + 1)^2 \div S = 6 \quad \text{Working pressure in pounds per square inch, where}$$

T = Thickness of plate in sixteenths of an inch;

S = Surface supported in square inches;

C = 100; but when the plates are exposed to the impact of heat or flame, and steam only is in contact with the plates on the opposite side, C is to be reduced to 50;

(9) In order to satisfy himself as to the strength and condition of a boiler, the Inspector may, if he deems it necessary, order holes to be cut in it, and may also demand that such information be furnished him as to the interior construction of the boiler as will enable him to judge correctly of its strength:

(10) In no case shall a certificate be granted for a boiler when drift pins have been used in bringing the holes in the sheets together:

(11) Man-hole openings must be stiffened with compensating rings of at least the same effective sectional area as the plate cut out, and in no case shall such rings be of less thickness than the plates to which they are attached; all openings in the shells of cylindrical boilers shall have their short axes placed longitudinally:

(12) When bars or angle irons are used for sustaining the crown sheet of the furnace of a boiler, three-fifths of the working pressure allowable upon the crown sheet, shall be sustained by hanging stays from the shell of the boiler attached to the crown sheet:

(13) Donkey boilers on steamboats shall be provided with two safety-valves, one of which may be locked up:

(14) Boilers in which the longitudinal seams in the cylindrical shell are single riveted, in place of double riveted; shall be subject to a reduction in the working pressure allowable for a boiler made in the best manner (as prescribed by sub-section three and four of this section), and the limit of pressure in boilers so made shall not exceed eighty pounds to the square inch in place of one hundred pounds or

one hundred and twenty-five pounds, as mentioned in sub-sections three and four of this section.

18. No boiler made and placed on board after the passing of this Act shall be made of boiler plate, whether iron or steel, which has not been stamped with the mark or name of the maker thereof; and no certificate shall be granted with respect to any boiler made wholly or in part of plate not so marked; and before a certificate shall be granted with respect to any boiler, a declaration on oath by the maker of the boiler, stating the name of the maker of the plates, their quality, and the quality of all materials used in the construction thereof, shall be furnished to the Inspector, which oath may be taken before any Justice of the Peace in Canada, or before a Notary Public, and certified under his official seal, if taken out of Canada: Provided always, that in any case where such declaration on oath by the maker of the boiler cannot be obtained owing to the death of the maker, or from other cause deemed sufficient by the Inspector, the affidavit of two practical boiler-makers who shall examine the boiler and report upon the quality of the materials in it and its workmanship and strength, shall, if satisfactory to the Inspector inspecting the boiler, be deemed sufficient in lieu of such declaration by the maker of the boiler:

2. During the construction of every boiler made in Canada, the maker of such boiler shall notify the Inspector of the district in which it is being made, that it is open to his inspection, and shall, at all times during such construction allow the Inspector access to such boiler:

3. No boiler or pipe shall be approved which is made in whole or in part of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use or any other cause.

SAFETY VALVES, STEAM GAUGES, ETC.

19. Every Inspector, when inspecting, visiting, or examining the boiler or machinery of any steamboat, shall satisfy himself that the safety-valves attached thereto are of suitable dimensions, sufficient in number, well managed and in good working order, and only loaded so as to open at or below the certified working pressure; and he may, if he thinks proper, order and cause one or more of such safety-valves, which, together shall be of sufficient dimensions to discharge all the steam the boiler can generate, and of such construction as he approves, to be locked up and taken wholly away from the control of the engineer when the steam is up; but this provision does not imply that the engineer is not to have access to the safety-valves when the steam is not up, but on the contrary he shall see that they are kept in working order, and the master of the steamboat shall see that the engineer has access to them for that purpose, and keeps them in proper working order:

2. The boiler-cocks and valves attached to the boilers, shall be substantially made, and in no case shall they be attached to the boiler by screwing into the plate, unless, as an additional security, nuts and flanges be used in addition to such attachment :

3. No valve, under any circumstances shall at any time be so loaded, or so managed in any way, as to subject a boiler to a greater pressure than that allowed by the Inspector at the then last inspection thereof :

4. The lock-up valves shall be of a construction, approved by the Board of Steamboat Inspection : such valves to be tested and proved by an Inspector before use ; and no Inspector shall grant a certificate to any steamboat unless the boiler, or each boiler, if more than one, of such steamboat be provided with two safety-valves, one of which shall be locked up and one open :

(5) Every safety-valve made or placed on board after the passing of this Act, or attached to a boiler made after that time, must have a lift equal to at least one-fourth of its diameter ; the openings for the passage of steam to and from the valve must each have an area not less than the area of the valve, as shall also the waste steam pipe, and the valve box must have a waste water pipe ; if the lever of a lever safety-valve is not bushed with brass the pin must be of brass,—iron and iron working together must not be allowed ; every such safety-valve must be fitted with lifting gear so that it can be worked by hand either from the engine-room or the fire hold, or by the master or person in charge on deck ; every such safety-valve must be so attached to the boiler that the valve chest shall be as close to the boiler as possible.

20. The area of any locked safety-valve or the joint areas of any locked safety valves to any boiler made or placed on board after the passing of this Act, shall not be less than half a square inch for each square foot of grate surface in or under the boiler.

21. Whenever the engine of any steamboat is stopped for any purpose, the engineer, or the master or person in charge of such steamboat, shall open the safety-valve so as to keep the steam in the boiler down to ten pounds below the pressure limited by the Inspector's certificate if the engine be a high pressure engine, and to five pounds below the pressure limited as aforesaid if the engine be a low pressure engine, under the penalty of two hundred dollars for every contravention of this provision.

22. In a conspicuous and easily accessible place, in each steamboat, there shall be a steam gauge properly constructed and open to the view of all passengers and others on board such steamboat, and showing at all times the true pressure of the steam in the boiler thereof.

23. And if any master or engineer of any steamboat at any time allows the pressure of steam, to which the boiler of such steamboat is subjected, to exceed that limited by her certificate, or alters or conceals or otherwise deals with the said steam-gauge, so as to prevent the real pressure of the steam from being seen and ascertained by any passenger, he shall thereby incur a penalty of two hundred dollars for every such offence.

24. The steam gauge required by this Act to be open to the view of all passengers and others on board any steamboat, shall be known as the "Bourdon Gauge," or shall be of such construction and shall be put in such place and position, as the Inspector inspecting, visiting or examining such steamboat shall, from time to time direct.

25. Each boiler of every steamboat shall be provided with a suitable water gauge capable of showing the water level within each boiler at all times: And all steamboats navigating in brackish or salt water, shall be provided with surface blow-off valves, such as are commonly used on board sea-going steamboats.

#### SAFETY BILGE INJECTION PIPE.

26. Every steamboat carrying passengers and having a condensing engine, shall be provided with a bilge injection valve and pipe of suitable dimensions, leading from the floor frames of the steamboat into the condenser of the engine.

#### BOATS AND LIFE PRESERVERS TO BE CARRIED BY STEAMERS.

27. No steamboat of the registered tonnage of one hundred tons or upwards shall depart by sea from any port or place within the Dominion of Canada, or depart from any port or place, on either of the Lakes Memphremagog, Ontario, Erie, Huron, Simcoe or Superior, or on the River St. Lawrence, or on the River Ottawa, or St. John, or on any lake or river in Manitoba, British Columbia, or the Northwest Territories, or the District of Keewatin, which is at any place on the route of such steamer more than one mile in width, with passengers, without having on board or attached to such steamboat one good and sufficient life boat made of suitable metal, fire-proof, with air tight metallic compartments at the ends and sides (except as hereinafter provided), according to the directions of the Inspector, capable of sustaining, inside and outside, fifty persons, with life-lines attached to the gunwale at suitable distances, or having on board two good and sufficient life boats, with air tight metallic compartments as aforesaid, each capable of sustaining, inside and outside, thirty persons, with life-lines attached to the gunwales at suitable distances, and in either case with sufficient oars and other suitable tackle:

(2.) The life-boat required to carry fifty persons may be considered of sufficient capacity if made of the following dimensions :—

Length of keel, twenty-two feet ; breadth of beam from metal to metal, five feet six inches ; depth from top of keel to top of gunwale at bottom of row-lock, two feet nine inches :

The life-boat required to carry thirty persons may be considered of sufficient capacity if made of the following dimensions :

Length of keel, eighteen feet ; breadth between metal and metal, five feet two inches ; depth from top of keel to top of gunwale, two feet two inches.

28. Notwithstanding anything to the contrary contained in the immediately preceding section, the life-boat or life-boats on board of or attached to any steamboat on any of the voyages of such steamboat, may have air-tight metallic compartments at the sides only, or at the ends only, or shall have them at both ends and sides, according to the directions of the Inspector by whom such steamboat was last inspected.

29. No steamboat of any registered tonnage whatever shall depart by sea from any port or place in the Dominion of Canada, or depart from any port or place on any of the lakes or rivers mentioned or referred to in section twenty-seven, with passengers, without having on board or attached to such steamboat, a good, suitable and sufficient boat, or good, suitable and sufficient boats, in good condition and properly equipped,—every such boat to be provided with not less than six oars, and other necessary tackle, and to be of sufficient capacity to carry not less than twelve adult persons, exclusive of the crew of such boat, and to be of not less than seventeen feet length of keel ; and the number of such boats to be in the following proportion to the registered tonnage of such steamboat, that is to say :

For every steamboat of less than fifty tons, one such boat ;

For every steamboat of fifty tons and upwards, but less than one hundred tons, not less than two such boats ;

For every steamboat of one hundred tons and upwards, but less than three hundred tons, not less than two such boats, in addition to the life-boat above required ;

For every steamboat of three hundred tons and upwards, not less than three such boats, in addition to the life-boat above required ;

All such boats shall be hung in separate davits, with lowering apparatus complete and ready for instant lowering : Provided, that in any case where any such steamboat carries two life-

boats one of the other boats may be carried on the hurricane deck without davits. The boats shall be kept in good condition, water-tight and ready for immediate use, and masters of steamboats shall detail their crews and exercise them in lowering and handling the said boats at least once a month. When wood is used as fuel in the boilers of high-pressure steamboats the covers for the said boats shall be made of wood covered with zinc. And every boat shall have the name of the steamboat to which it belongs and of her port of registry legibly painted on her bows and stern :

Provided, that no steamboat employed chiefly in the carriage of freight, when carrying not more than twenty-five passengers, shall be required to have on board or attached to such steamboat more than two boats in addition to a life boat.

90. Provided, that the Minister of Marine and Fisheries may authorize the use in individual specified cases, of boats of different dimensions from those specified in sections twenty-seven, twenty-eight and twenty-nine of this Act ; and upon such authorization being granted, it shall be sufficient that boats of the dimensions specified in such authorization be provided and carried on the steamboat to which such authorization relates.

31. Every steamboat employed in the carriage of passengers which shall be used in the navigation of rivers, or inland navigation only, except as specified in sections twenty-seven and twenty-nine of this Act, shall carry not less than two good boats, provided with four oars each, and of sufficient capacity to carry not less than twelve persons with safety, besides the crew, except steamboats confined to the navigation of the River St. John, above Fredericton, the waters in the District of Muskoka, the County of Victoria and the County of Peterborough, in the Province of Ontario, and the waters of the Ottawa River and its tributaries above the city of Ottawa, or of lakes and rivers not exceeding one mile in width at any place on the route of such steamboat, which shall carry one good boat of the size and provided as aforesaid ; and except also steamboats of less than fifty tons register, which shall carry one good boat of the size and description, and provided in the manner approved of, in each case, by the Inspector : Provided always, that steamboats not exceeding one hundred and fifty tons register shall not be required to carry more than one good boat of the capacity above mentioned.

32. Every steamboat to which the twenty-seventh and twenty-ninth sections of this Act apply, shall be provided with sufficient means for lowering from on board safely and expeditiously each boat required by the said sections to be on board of or attached to such



steamboat, on each occasion on which such boats are so required to be on board of or attached to the same :

(2.) Three davits properly constructed and placed shall be considered sufficient for lowering two boats :

33. Every steamboat not employed in the carriage of passengers, and every steamboat to which the twenty-seventh, twenty-eighth, twenty-ninth, thirty-first, thirty-fifth and thirty-eighth sections of this Act do not apply, shall at all times, when the crew thereof is on board, be provided with and have on board or attached to such steamboat in some convenient place a good, suitable and sufficient boat, or good, suitable and sufficient boats, in good condition and properly equipped, and provided with oars in sufficient number and other necessary tackle, and of sufficient capacity to carry all the crew of such steamboat, and with sufficient means for lowering such boat or boats from on board safely and expeditiously, and also a life-preserver for each one of the crew, and also a number in due proportion to that of the crew, of good and sufficient fire-buckets, of metal, leather, or other suitable material, and axes and lanterns, to the satisfaction of the Inspector.

34. Sections twenty-seven, twenty-eight, twenty-nine, thirty-one, thirty-five and thirty-eight shall not apply to ferry-boats or tug-boats plying elsewhere than on the River St. Lawrence.

35. Every sea-going steamboat and every steamboat on any of the lakes or rivers specified in the twenty-seventh and twenty-ninth sections of this Act, or navigating any bay or bays or arm or arms of the sea in connection with the Dominion, employed in the carriage of passengers, shall be provided with and shall carry on board on every voyage life-preservers as follows, namely :—Each and every such steamboat of the registered tonnage of two hundred tons and upwards, shall be provided with two hundred life-preservers ; and each and every such steamboat of the registered tonnage of less than two hundred tons shall be provided with not less than three life-preservers for every five tons register ; and each steamboat carrying passengers on rivers or inland navigation, except on the lakes and rivers specified in section twenty-seven, of the registered tonnage of two hundred tons and upwards, shall be provided with not less than one hundred life-preservers, and each such steamboat as last aforesaid, of less than two hundred tons register, with not less than fifty life-preservers ; and all such life-preservers shall be made of the size and material approved of by the Inspector, and shall be fitted with shoulder straps and fastenings suitable for securing the same around the body, under the arms ; and each such preserver shall have a buoyancy of sixteen pounds, and shall at all times be kept in some convenient and accessible places in the staterooms or on the

deck of such steamboat, under cover and in readiness for the use of passengers; and no steamboat shall proceed to sea or on any voyage without being fully provided in compliance with the requirements of this section: Provided always, that the maximum number of such life-preservers required on any steamboat shall not exceed two hundred. But in any steamboat, as to which the boat capacity, and the number of life-preservers, together fall short of the number of passengers she is allowed to carry by her certificate, such deficiency shall be supplied by a number of wooden floats, each equal in buoyancy to one cubic foot of seasoned white pine, equal to the number of passengers and crew not provided for in the boats or with life-preservers.

(2.) Provided always, that notwithstanding anything in the next preceding sub-section, no steamboat, employed chiefly in the carriage of freight, when carrying not more than sixty passengers, shall be required to be provided with or carry on board on any voyage more than one life-preserver for each passenger, and one life-preserver for each of the crew then on board of such steamboat.

36. A cork jacket, with shoulder straps and waist lines for fastening the same around the body, shall be the form of life-preserver to be used on passenger steamboats.

37. Every steamboat registered in Canada, or to which this Act applies, shall carry at least one life buoy with a proper heaving line attached, in some convenient place where it can be easily got at for use in case of accident requiring it.

But the Governor in Council may, at any time, order and direct that the other provisions of this Act shall not, or shall not for any time specified in the order, in so far as such provisions extend to the carrying of boats and life-preservers, apply to any ferry-boat specially mentioned in such Order in Council, and the Governor in Council may order and direct that such other provisions as he may deem advisable with respect to the carrying of boats and life-preservers on such ferry-boats, shall be applicable to and shall be enforced in respect of such ferry boat.

#### PRECAUTIONS AGAINST FIRE.

28. Except as hereinafter provided, every steamboat employed in the carriage of passengers, whether by sea, bay, lake or river navigation, of more than one hundred and fifty tons gross, shall be provided with and have on board, in some convenient place, not less than twenty-five sufficient fire buckets of metal or leather, five axes, and six good and sufficient lanterns approved of by the Inspector: Provided always, that passenger steamboats of more than seventy-five and less than one hundred and fifty tons gross shall not

require to be provided with and have on board more than twelve fire buckets, and that passenger steamboats of seventy-five tons gross and under, and steam-tugs under one hundred and fifty tons gross, shall not be required to be provided with and have on board more than six fire buckets.

39. Suitable and safe provision shall be made throughout the steamboat to guard against danger from fire; and no combustible material liable to take fire from heated iron, or any other heat generated on board any steamboat in and about the boilers, pipes or machinery, shall be placed at less than six inches distant from such heated metal or other substance, likely to cause ignition; and further, when wood is so exposed to ignition, it shall, as an additional preventative, be shielded by some incombustible material, in such manner as to allow the air to circulate freely between such material and the wood; and metallic vessels or safes shall be provided and kept in some convenient place to receive cotton-waste, hemp, and other inflammable substances, which are in use on board.

(2.) Provided, however, that when the structure of the steamboat is such, or the arrangement of the boiler or machinery is such, that the requirements aforesaid cannot, without serious inconvenience or sacrifice, be complied with, the Inspector may allow deviations from the said requirements, if in his judgment it can be done with safety:

(3.) But inflammable matter, when carried on any steamboat, shall invariably be stowed away as far as possible from the boiler, and from places where its ignition is possible.

(4.) No fire nor any lighted lamp, candle or other artificial light by which fire may be communicated, shall be allowed in any stateroom of any passenger steamboat, nor in the steerage thereof unless in a locked and glazed lantern.

40. Every steamboat carrying passengers shall have at least three double acting forcing pumps, with chambers at least four inches in diameter, two to be worked by hand, and one by steam, if steam can be employed independent of and not worked by the main engine, otherwise all three by hand, one whereof shall be placed near the stern, one near the stem, and one amidships, each having a suitable well-fitted hose of at least two-thirds the length of the steamboat, kept at all times in perfect order, clear of freight or other obstructions, with hose coupled and ready for immediate use; each pump and coupling shall be provided with a hose-wrench chained to the same, and each of the said pumps shall be supplied with water by a pipe connected therewith, and passing through the side of the steamboat, so low as to be at all times in the water when the boat is afloat:

(2) Provided, that in steamboats not exceeding two hundred tons gross (that is engine-room included) two of such pumps (one of which may be the steam-pump) may be dispensed with, and in steamboats of over two hundred tons, but not exceeding five hundred tons gross one of such hand-pumps may be dispensed with; but in these cases the hose shall be of such length as to reach easily to every part of the steamboat; and in steamboats where only one pump is used, such pump shall be placed where directed by the Inspector:

(3) And in cases where an iron tube or tubes equal in diameter to the hose carried by the steamboat, connected with a force-pump or pumps, and extending at least one-half of the length of the steamboat, is or are fixed under the hurricane deck thereof, and provided with nozzles placed at distances of not more than thirty feet from each other or from either end of the steamboat, to which nozzles the hose carried by the steamboat, can be readily attached, it shall not be necessary that the hose should be of greater length than will be sufficient to reach from some one of such nozzles to either end of the steamboat. Each nozzle shall be provided with a stop valve or stop cock, so that one or more of such hose attachments may be used, as may be required:

(4) In steamboats under one hundred tons gross, one steam pump of suitable size, or if steam cannot be employed, one force-pump of suitable size worked by hand, shall be sufficient:

(5) In steamboats not exceeding two hundred tons gross requiring only one pump, such pump shall be placed aft, unless the space forward is kept free to admit of ready access to the pump and hose, in which case the pump may be placed forward.

41. Every steamboat of more than sixty tons, registered tonnage, carrying passengers, shall also be provided with a steam pony pump that may be used as a fire-engine, to be worked independently of the main engine; such steam pony-pump shall be placed on the main deck of the vessel, as near as possible to the engine-room, convenient to the contrivance of the engineer; and in all cases the pump hose shall be coupled to the pony and hand fire-pumps, ready for immediate use in case of fire.

42. Every steamboat carrying passengers on the main or lower deck, shall be provided with sufficient means convenient to such passengers for their escape to the upper deck, in case of fire or other accident endangering life.

43. On board every steamboat carrying passengers there shall be placed in some conspicuous place, accessible to all the passengers a copy of this Act, and in every cabin, stateroom and in other conspicuous places about the vessel, a printed paper to be provided and filled

up by the owner or master of the steamboat, showing the number of boats, with their capacity, and also the number of fire-buckets, axes and life-preservers and floats on board of such steamboat, and the method of adjusting such life-preservers to the body, and a statement of the places where such buckets, axes and life preservers are kept. The name of the steamboat shall be painted or stamped on all the boats, fire-buckets and floats, axes and life-preservers.

44. The Governor in Council may, from time to time, make, alter or repeal rules and regulations requiring steamboats to carry chemical or other fire extinguishers, and prescribing the number of such fire extinguishers to be carried by steamboats of different sizes and classes respectively; and such rules and regulations being published in the Canada Gazette, as required by this Act, shall, while in force, have effect and be enforced by the Inspectors and others as if made under this Act, and any contravention thereof shall be punishable as an offence against this Act.

#### ENGINEERS.

55. Any person claiming to be qualified to perform the duties of an engineer in steamboats, shall apply for a certificate to the Board of Inspection, who shall examine, or shall cause an Inspector or Inspectors to examine and report upon the applicant and the proofs that he produces in support of his claim; and any such examination may be upon oath, which an Inspector may administer; and if upon full consideration the Board of Inspection are satisfied that his character, habits of life, knowledge and experience in the duties of an engineer are all such as to authorize the belief that the applicant is a suitable and safe person to be entrusted with the powers and duties of such a station, the said Board of Inspection shall give him a certificate to that effect under the hand and seal of the Chairman, specifying the grade for which he has been found qualified; and the said certificate, except that of a first-class engineer, shall, subject to the above conditions, be renewed yearly, or oftener if applied for, and may be so renewed by the Chairman in the interim between the meetings of the Board; and for every such certificate the applicant shall pay the sum of five dollars, and for every renewal five dollars, which shall be paid to the Receiver-General, as part of the Consolidated Revenue Fund: Provided, that if the report of the Inspector or Inspectors certifying the fitness of an applicant, be made at a time when the Board of Inspection is not sitting, it may be sent by such Inspector or Inspectors to the Chairman or to the Deputy-Chairman of the Board who may thereupon grant a certificate to the applicant to be in force only until the then next meeting of the Board; and the fee paid by him shall not be returned if he does not then obtain a certificate from the Board, but if he obtains it he shall not pay any further fee therefor:

(2) But the license of any such engineer may be revoked by the said Board upon proof of negligence, unskilfulness or drunkenness, or upon the finding of a coroner's inquest, and may also be revoked by the Board for any other cause, provided such other cause be deemed sufficient by the Minister of Marine and Fisheries, and certified as such by him :

(3) It shall not be lawful for any person to keep watch as engineer on any passenger steamboat or on any freight steamboat over one hundred and fifty tons gross, who does not hold a certificate either from the Board or from the Chairman as provided by this Act :

(4) It shall not be lawful for any person to act in the double capacity of engineer and master on any steamboat.

46. Engineers shall be classified according to the following grades :

- 1st Class Engineers,
- 2nd Class Engineers,
- 3rd Class Engineers :

A first-class engineer shall be qualified to take charge of any steamboat :

(2) A second-class engineer shall be qualified to take charge of any freight steamboat, or of any other steamboat except a sea-going passenger steamboat of more than one hundred nominal horse power.

(3) A third-class engineer shall be qualified to take charge of any passenger steamboat of less than thirty nominal horse power, or of any freight steamboat except a sea-going steamboat more of than one hundred nominal horse power :

(4) Persons who hold certificates as first-class assistant engineers, or limited certificates as competent to take charge of passenger steamboats for the year 1882, may, at any time after the passing of this Act, exchange them for certificates as third-class engineers on payment of a fee of five dollars which shall be paid to the Receiver-General as part of the Consolidated Revenue fund.

47. It shall not be lawful for any person to employ another as engineer, or for any person to serve as engineer, on any passenger steamboat, or on any freight steamboat of over one hundred and fifty tons gross, unless the person serving or employed as engineer is licensed by the said Board, for the grade in which he is to be employed, except as herein provided. and any person so offending shall incur a penalty of one hundred dollars : Provided however, that if a steamboat leaves a port with a complement of engineers, and on her voyage is deprived of their services or the services of any of them, without the consent, fault or collusion of the master, owner or any one interested in the steamboat, the deficiency may be temporarily supplied until others licensed can be obtained.

Rules for the guidance of Inspectors of Steamboats examining Engineers.

48. No person shall be qualified for a third-class engineer's certificate who is not over twenty-one years of age or who has not served an apprenticeship of not less than three years in a marine steam engine shop, and been employed on the making and repairing of such engines; or, if he has not served such apprenticeship, he must prove that he has been employed for not less than three years as a journeyman mechanic in some workshop, on the making and repairing of such engines; in either case, he must also have served one calendar year in the engine room of a steamboat as engineer on the watch; or he must have served four years at least in the engine room of a steamboat as engineer on the watch; he must be able to give a description of boilers, the methods of staying them, and the requisite strength of their several parts, and must know the means of repairing them; he must know the method of lining the engine, setting the eccentrics and adjusting the slides or valves, and also the cause of any derangement and the means of remedying it; he must write a legible hand and understand the first five rules of arithmetic:

(2.) A second-class engineer shall have the qualifications of a third-class engineer with not less than two years' experience as such in the engine room of steamboats of not less than thirty nominal horse power, as engineer on the watch:

(3.) A first-class engineer shall have the qualifications of a second-class engineer with not less than three years' experience on one or more steamboats of not less than one hundred nominal horse-power; he must be competent to calculate the thickness of plates required for a boiler of given dimensions and construction to carry a fixed pressure of steam, and also the dimensions and construction of the boiler and thickness of plates being given, the pressure that it may be allowed to carry; he must be able to calculate the strength of its stays, connections, joints and other parts, and the tensile and crushing strength of the materials used in its construction; he must be able to calculate the required capacity of the feed-pump, the area of the safety-valve for a boiler of given dimensions, and the power of the engine from a diagram of its working, and to define the position of the crank and eccentrics as indicated by diagram; he must know the relative volumes of steam and water at different temperatures and pressures, the chemical constituents of coal, its heating and mechanical equivalents, and the quantity of air required for its combustion; he must be competent to make a working drawing of any part of an engine, and explain the operation of the engine or any of its parts in connection with the whole; he must be conversant with surface condensation and the working of steam expansively.

49. Any engineer who feels himself aggrieved by any order, or act of an Inspector may, within two weeks thereafter, appeal therefrom to the Board of Steamboat Inspection, or to the Chairman when the Board is not sitting, who shall submit the case to the Board at its next sitting; and the Board may confirm, modify or disallow such order or act; and any other person who feels himself aggrieved by any order or act of an Inspector, may, within two weeks thereafter, appeal therefrom to the Minister of Marine and Fisheries, who may confirm, modify or disallow such Act or order.

## INSPECTION FEES.

50. The owner or master of every steamboat in the Dominion of Canada, shall pay yearly, and every year, a rate of duty fixed by the Governor in Council, and not exceeding ten cents for every ton gross which such steamboat measures; and the owner or master of every passenger steamboat exceeding one hundred tons gross, shall pay an inspection fee of eight dollars for each inspection made imperative by this Act; and the owner or master of any passenger steamboat of one hundred tons and less, or of any other steamboat, shall pay an inspection fee of five dollars for each inspection made imperative by this Act:

(2.) And for the purposes of this section every ton of the gross tonnage of a steamboat shall be reckoned and no allowance or deduction shall be made for the space occupied by the engine room:

(3.) The amount of such rate or duty and inspection fee or fees, shall in each case be paid to and received by the chief officer of Customs, at some one of the ports in the Dominion of Canada, who shall account for and pay over the same to the Receiver-General for the Consolidated Revenue Fund, at such times and in such manner as the Governor in Council may, from time to time, direct.

51. No Inspector shall make or deliver a certificate respecting any steamboat under this Act, unless the receipt of a chief officer of Customs for the rate or duty payable in respect of such steamboat for the then current year, has been produced and shown to him, nor unless he is satisfied, by careful examination, that all the conditions and requirements of this Act have been fulfilled and complied with, by and in respect of such steamboat; and every Inspector shall report to some chief officer of Customs any case of omission to pay such rate or duty, or of omission to apply for such inspection as aforesaid, for more than one year from the date of the then last inspection, or of refusal to submit to inspection at any time, which in any way or at any time comes to his knowledge.

52. Each chief officer of Customs shall demand of the owner or master of every steamboat which he may have reason to think has not been inspected as required by this Act, or in respect of which he may have reason to think the rate of duty mentioned in section fifty of



this Act is due and unpaid, the exhibition of the receipt and certificate in that behalf, appertaining to such steamboat; and if such receipt and certificate as aforesaid, to his satisfaction, are not produced, then such Chief Officer shall seize and detain such steamboat until the same are produced and exhibited, and any penalty incurred and lawfully imposed in respect of such steamboat under the provisions of this Act, has been paid in full; and in default of payment, such Chief Officer shall sell such steamboat for the payment of such rate or duty or penalties, in the usual manner, and shall deal with the proceeds as if the penalties were incurred for violation of the Customs law.

PASSENGERS.

53. The Inspectors shall, in their certificate, prescribe the number of cabin or steerage or other passengers, that may be carried by any steamboat inspected by them having regard to the dimensions or tonnage thereof, or both or otherwise howsoever,—subject to appeal to the Minister of Marine and Fisheries, whose decision shall be final; and if such decision differs from that of the Inspector, they shall alter their certificate accordingly.

54. Every Inspector may at any time visit, within the limits assigned to him, any steamboat, and inspect and examine the same, and if he considers such steamboat unsafe or unfit to carry passengers, he shall report thereon to the Minister of Marine and Fisheries, who may direct that such steamboat shall not be used or run until permitted by the Inspector, who shall have made such report, or by order of the said Minister; and any steamboat run or used in contravention of an order of the Minister shall be liable to forfeiture and to seizure by the chief officer of Customs at any port, and to sale, in the same way and under like provisions, as goods liable to forfeiture for non-payment of duties.

55. The master or owner of any steamboat in which a greater number of passengers than that allowed by her certificate is at any time carried shall be guilty of an offence against this Act and shall, for each such offence, incur a penalty not exceeding five hundred dollars and not less than fifty dollars, to be recovered and appropriated in the manner provided by section sixty-six of this Act.

56. The master or person in charge for the time being of any steamboat who shall wilfully or negligently at any time allow to be carried on board such steamboat, a greater number of passengers than that permitted by her certificate, shall be guilty of a misdemeanor; and upon conviction thereof shall be imprisoned for two years in a penitentiary, or for a less term in any other prison or place of confinement, or shall be subject to a fine not exceeding five hundred dollars, or

shall suffer both fine and imprisonment within the above defined limits, as the court may order.

57. No tug-boat shall be employed to tow any barge, or any boat, bateau, scow or undecked vessel having passengers on board, unless such vessel has been inspected by an Inspector of hulls and equipment, and by him certified as provided in the schedule C, hereunto annexed, to be fit and properly equipped to carry passengers on the waters on which she is so towed; and no such vessel shall, while so towed, have on board a greater number of passengers than she is certified as being fit to carry safely; and for any contravention of this provision, the master and the owner of the tug-boat, and the owner and person in charge of such barge, boat, bateau, scow or vessel carrying such passengers, shall each incur a penalty not exceeding two hundred dollars and not less than twenty dollars, to be recovered and appropriated in the manner provided in section sixty-six aforesaid.

#### MASTS AND SAILS—AND GANG-BOARDS.

58. It shall be lawful for the Minister of Marine and Fisheries, from time to time, by regulations to be made, repealed or altered by him from time to time, and to come into force as provided by the eighth section of this Act, with respect to regulations made by the Board of Inspection, to require that all or any description of steamboats above sixty tons registered tonnage, carrying passengers on the sea coasts of the Dominion or on all or any of the waters of the Dominion, with the exception of that portion of the St. Lawrence between Quebec and Kingston, and of the river connecting Lakes Erie and Huron, and of the waters between Kingston and the head of the Bay of Quinte, and the rivers in the Provinces of Nova Scotia and New Brunswick, and the tributary rivers flowing into the River St. Lawrence, or the lakes west of Quebec, and of any rivers or lakes not exceeding one mile in width on any part thereof on the route of such steamboats, respectively, shall, at all and any seasons of the year, be provided with a mast or masts, and sail or sails, suitable for such steamboats, and to prescribe the dimensions of such mast or masts, and sail or sails respectively.

59. Every steamboat or vessel carrying passengers shall be provided with good and sufficient gang-boards, protected at the sides in a suitable manner against danger to passengers from falling overboard; and the master of such steamboat or vessel shall, on stopping at any wharf or landing place, cause a gang-board to be firmly secured to the vessel for the safe and convenient transit of passengers; and he shall cause to be fixed to such gangway (in the night time) good and sufficient lights.

60. The owner or occupier of every such wharf or landing place, shall also, (in the night time) cause to be shown conspicuously, on

each wharf or landing-place, and at every angle or turn thereof, during the whole of the time that any steamboat or vessel is approaching the same or stopping thereat, a good and sufficient light.

61. For the purposes of the two next preceding sections of this Act, the night shall be deemed to extend from one hour after sunset till one hour before sunrise, at all seasons of the year.

62. Any person commanding or having charge of any steamboat, schooner or other vessel, navigating the waters of Canada, and any owner or occupier of a wharf or landing place who offends against the fifty-ninth and sixtieth section of this Act, shall be liable to a penalty of twenty dollars and costs, and in default of payment to imprisonment for a period of not more than twenty days, unless such penalty and costs are sooner paid.

63. The owner or owners of any steamboat or other vessel, or the owner or occupier of any wharf or landing place, the person commanding or in charge of which neglects to comply with the provisions of the fifty-ninth or sixtieth section of this Act, shall be liable for all damages sustained by any persons from any accident arising from non-compliance with the provisions of this Act, or during such time as the provisions of this Act are not complied with—such damages to be recoverable at law, before any of Her Majesty's superior courts of common law in the Province in which such accident happens.

#### MISCELLANEOUS PROVISIONS.

64. If any damage to any person or property is sustained in consequence of non-observance of any of the provisions of this Act, imposing any duty on the owner or master of any steamboat, the owner shall, in all civil proceedings, and the master or other person having charge thereof shall, in all proceedings, whether civil or criminal, be subject to the legal consequences of such default.

And any inspector wilfully, or through any culpable negligence of duty, making or confirming any false statement in any certificate under this Act, shall thereby incur a penalty of two hundred dollars.

65. Except when otherwise specially provided, for every contravention in respect of any steamboat in the Dominion of Canada, on any one voyage or trip thereof, of any provision in this Act, or in any Order in Council made under it, the owner or master thereof shall incur a penalty of not more than two hundred and not less than twenty dollars; and any Inspector of steamboats is hereby empowered to detain any steamboat on board or in respect of which the provisions of this Act have not been fully complied with, or of which the boilers or machinery or the hull, by reason of any injury or other cause, have in his opinion, become unsafe; and in case any

such Inspector gives notice in writing to any chief officer of Customs that any of the provisions of this Act have not been fully complied with in respect to any steamboat, such chief officer of Customs shall not grant any clearance, coasting license or other document for such steamboat, unless nor until he receives the certificate in writing of such Inspector, to the effect that such provisions have been fully complied with in respect to such steamboat.

66. All penalties incurred under this Act may, when other provisions is not made in the case, be recovered with costs in a summary manner under the Act thirty-second and thirty-third Victoria, chapter thirty-one, in the name of Her Majesty, by any Inspector or by any party aggrieved by any act, neglect, or omission, on the evidence of one credible witness, who may be the prosecuting Inspector himself, before any Judge of a County Court, Judge of the Sessions of the Peace, Stipendiary or Police Magistrate, or two Justices of the Peace; and in default of immediate payment of such penalty, such magistrate or justices may commit the offender to gaol for any period not exceeding three months, unless such penalty be sooner paid; and one moiety of all penalties recovered under this Act shall be paid to the Receiver-General, and shall be by him placed to the credit of the Consolidated Revenue Fund, and the other moiety shall belong to the informer unless he is the prosecuting Inspector,—in which case the whole shall be paid to the Receiver-General for the said Fund.

67. The Governor may, whenever he thinks fit, order an investigation to be paid by any person or persons to be appointed for that purpose, into the cause of any accident involving loss of life on any steamboat, and the person or persons so appointed may summon witnesses and compel their attendance before him or them by the same process as courts of law, and may administer oaths and examine witnesses touching the cause of such accident, and report thereon to the Governor.

68. The Chairman of the Board of Steamboat Inspection shall, at the end of each calendar year, furnish the Minister of Marine and Fisheries with a report of the proceedings of the Board, and a return of all steamboats inspected, and of all penalties collected under the provisions of this Act.

(2.) And each Inspector shall make monthly returns to the Chairman of the said Board of all steamboats inspected by him, their tonnage and power, with general descriptions of their machinery and hulls, and a statement of the fees collected upon the same.

69. The foregoing provisions of this Act shall come into force and take effect on, from and after the first day of September in the present year, one thousand eight hundred and eighty-two; except

that any appointment or arrangement for carrying out this Act may be made before the said day to take effect on and after it.

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#### SCHEDULE B.

Certificate for a freight boat under 150 tons gross, or a tug boat, fishing boat, or pleasure yacht, steam dredge, or elevator, or like vessel.

Having examined the boiler and machinery of the steamboat (name, or as the case maybe) of \_\_\_\_\_ whereof \_\_\_\_\_ is owner (or are owners) and \_\_\_\_\_ is master, on this day of \_\_\_\_\_ A. D. 18 \_\_\_\_\_.

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#### 28. DUTIES AND LIABILITIES OF ENGINEERS.

##### Rules and Regulations.

Rule I.—Engineers are required in all cases upon stopping of the engine to open the safety-valves, so as to keep the steam in the boiler below the limit allowed by the Inspector's certificate, as prescribed by law, to open the furnace doors or close the dampers, and when from accident or other cause the water in the boiler has fallen below the point of safety, to put out the fires immediately.

Rule II.—Engineers shall keep the fire pumps and hose and their connections in perfect condition ready for immediate use, and when found unfit for use from age or other cause, shall report their condition to the Inspector by whom the steamer was last inspected.

Rule III.—Engineers when laying up a steamer in the fall or, when finally leaving her, are required to report to the owner, and also to the Inspector of the nearest district, any defects of or injury to the boilers or machinery by which the safety of the same may be endangered. They shall also report to the Inspector of the district at which the steamer next arrives any accident happening to the boilers or machinery during the trip, and in case of omission to make such report, the license of the engineer so omitting shall be revoked.

Rule IV.—The Chief Engineer of a steamer is held accountable by the Board for the proper care and management of the boilers and machinery under his charge. He is, therefore, in no case, to absent himself from the vessel while on her regular trips, unless a competent substitute be provided to fill his place during his absence.

Rule V.—Engineers on first taking charge of a steamer, and at least once a year thereafter, shall satisfy themselves by close examination that the braces, stays and pins of the boiler are in good order, and

sufficient for the strain to which they may be subjected; they shall also satisfy themselves that the safety-valves are in good working order and sufficient for the requirements of Rule I thereof.

Rule VI.—Engineers are to exhibit their certificates in the engine room along with a copy of these Rules.

Rule VII.—Management of Boilers :—

1. Getting up steam.—Warm the boiler gradually. Steam should not be raised from cold water in less than four hours. If practicable, light the fires over night. By getting up steam too quickly the boiler will soon be destroyed.
2. Firing.—Fire regularly. Keep the sides up and use the slide gently and as seldom as possible.
3. Feed water.—Let the feed be regular and constant.
4. Glass gauge and try cocks.—Keep the glass free and try the gauge cocks every fifteen minutes.
5. Safety-valves.—Lift each safety-valve at least once a day, and always before getting up steam.
6. Low water.—Put out the fires by drawing them or throwing ashes on them. Never use water. Low water should never occur.
7. Blowing off the boiler.—Don't blow off by steam pressure; let the water run off if possible. See that the fires are all out.
8. Boiler purgers.—Never use any compositions to keep down incrustation or oil or other impurities to remove it.
9. General rules.—Keep the boiler clean inside and outside, and free from leak. Never throw water in the furnace. Under high pressure raise the safety-valve gently. Lower the fires or, if necessary, stop the engine when foaming to find the water level.

29th. The life-boat required by section 27 of the Act 1882 :—

Lifeboats must be built whale-boat fashion, both ends alike; they must have a sheer of about  $\frac{3}{4}$  inch to a foot, rising equally from amidship to the stem and stern, and to have sufficient strong serviceable air-tight compartments, so constructed, fitted and arranged that water cannot find its way into them.

The lifeboat must be substantially constructed of galvanized iron, of not less than No. 18 wire gauge in thickness.

Zinc is not to be used in the construction of a life-boat, on her air-casings.

The air-tight compartments must be so distributed as to give the boat good buoyancy and stability; whether a part of the air case should be under thwarts, or whether they should be all in the ends and along the sides, will be, so long as an efficient life-boat is obtained, left to the option of the owner.

Spaces filled with or containing any material are not to be deemed air spaces.

A square stern boat is not to be passed as a life-boat.

Life lines should be suitably attached to the gunwale of the life-boat.

The lifeboat must be provided with the full complement of oars properly secured, two plugs for each plug hole attached with lanyards or chains, a bailer, rudder and tiller also attached to the boat by lanyards, a hatchet attached with a lanyard should be kept in each end of the boat, and a painter and boat hook.

Means for detaching speedily the lifeboat from the lower blocks of the davit tackles must be provided. An ordinary fixed hook in the lower block should not be allowed. The boat's davits must be strong enough and so spaced that the boat can be swung out without unnecessary labor, that the boat chocks can be expeditiously removed, and that the boat will not foul the ship's sides in lowering when the ship has no list, and that the whole of the tackling, davits, falls, blocks, eye-bolts and rings, &c., are of sufficient strength to lower the boat with its full complement on board.

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## THE INLAND LLOYDS.

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By Wm. W. Bates, Esq., Ship Architect and Builder, Chicago, Ill.

The Inland Lloyds is an association of lake underwriters, comprising from year to year those companies that subscribe in defraying the expenses of inspection, classification and registry of lake vessels. The Register is designed exclusively for the use of these companies in the prosecution of lake insurance, and not to be promulgated to the public.

By the Inland Lloyds lake vessels are divided into three classes, viz.: A, B and 00 (ciphers, with five grades to A and three to B, as follows: A1\*, A1, A1½, A2, A2½, and B1, B1½, B2. Vessels

in the third class designated by 00 (ciphers) are not insurable. The rules for classification are so short and simple they may be given at length, as adopted Jan. 20, 1880:

Rule 1.—Vessels built under the rule of the building book, issued by the Lake Board of Underwriters for an A1 vessel in 1861, and adopted by the Executive Committee of the Inland Lloyds, Jan. 29, 1878, and also January, 1880, with the addition of a longitudinal iron band at the head of the frames, and diagonal straps at both ends of vessel, running from the iron band at frame heads to below the turn of bilge of vessels, will be entitled to class A1\* ten years; then A1½ three years, then A2 three years, at which time it will be necessary to refasten the vessel to have her retain A2 class longer; from A2 she will pass to A2½. After vessels leave the A2 class it depends entirely upon the repairs and condition of the vessel as to the number of years that she may retain A2½, B1, B1½, B2. At any time, however, vessels are liable to be surveyed, and if, from any cause whatever, such as stranding, collision, dry rot, or deficiency in material, etc., a vessel is found unworthy to remain in her class, she will be placed in the class to which she is entitled; but if the damages or defects be promptly made good, to the satisfaction of the inspector, the vessel may remain in her class so long as she is considered worthy of it by the inspector, if she don't pass out of her class by limitation.

Rule 2.—Vessels built under Rule 1, but without iron band and diagonal straps, will be entitled to class A1 for seven years, A1½ three years, A2 two years; at which time it will be necessary, if the frames are sound, to refasten the vessel to have her retain an A2 straight class, as the salting and brining resorted to, to save the timber, weakens the iron fastening; if refastened and in good condition otherwise, she will be continued A2 straight three years longer; then A2½.

Rule 3.—New vessels classing A1½ can hold that class seven years; then A2 three years. These are vessels with their frames 24 inches from centres and lighter construction generally than A1 vessels, but subject to same rules.

Rule 4.—New vessels classing A2 can hold that class seven years; then A2½ three years. These are vessels with their frames 24 inches from centres and lighter construction generally than A1 vessels, but subject to same rules.

Rule 5.—New vessels classing B1 can hold that class five years; then B1½ two years.

Rule 6.—Frame-built scows, well constructed and of good material, with fore and aft bottom plank, may be entitled to class



B1 for five years; but in no case will scows be entitled to the B1 grade if built with gunwale sides or planked athwartships on bottom.

Rule 7.—Vessels thoroughly rebuilt, either from inside or outside but if from inside, keelson to be removed, so that frames can be put in same as originally—will have their class raised; but frames put in from inside, with short laps, or frames put in between old frames, will not entitle the vessel to a higher class than B1.

Rule 8.—Vessels will be credited with all repairs made, and class raised when sufficient repairs have been made to warrant the change, but in no case from rebuild can a vessel be raised higher than A1½.

Rule 9.—Vessels built of iron, if of proper thickness and strength well riveted, and divided into three or more water-tight compartments, will be entitled to class A1 fifteen years, A1½ five years, A2 five years, then into A2½, subject always to the same rules and exceptions as laid down for A1\* vessels.

Rule 10.—No vessel to be classed for grain, without one pump in each end.

When the rot on the frames, either forward or aft, is one inch deep for an average of ten frames, if on an A1 vessel should be classed at

					A1½
If 2 inches of rot, average as above					A2
" 3	"	"	"	"	A2½
" 4	"	"	"	"	B1
" 5	"	"	"	"	B1½
" 6	"	"	"	"	B2

This is for frames not less than 12 inches in their seating; all decay beyond this the vessel will be considered unseaworthy. Examine the rudder stocks, windlass bits, also masts and pumps carefully.

## THE BUILDING RULES OF 1876.

In the interest of ship building I take the liberty to reprint the following rules from the book of the late Capt. E. P. Dorr, of Buffalo, as many of them as are now observed by lake builders, and they more nearly represent good practice than any other extant. They were written and compiled by Wm. W. Bates, Esq., ship

architect and builder of Chicago, acting as secretary of the Council of lake ship builders, at Buffalo, 1875 :

## SHIFTING-BOARDS.

Section 36. All vessels to have shifting boards secured to each side of the stanchion heads, to hold the cargo in place. Their depth from the beams, to be equal to one-third the depth of hold ; and their thickness one-eighth of an inch for each foot of interior half-breadth.

The cable-lockers, and hold bulkheads to be securely built with planks, of a thickness, one-eighth of an inch for each foot in depth of hold.

## PUMPS.

Section 37. All vessels to have pumps in number and size equal to the manning ability of the full crew. Specifically, vessels from twenty to one hundred and fifty tons, to have two single or one double pump ; those from one hundred and fifty to three hundred and fifty tons, to have two double pumps, one forward and one aft ; and those over three hundred and fifty tons, to have three double pumps, one forward, one amidship, and one aft, exclusive of bilge pumps.

All pumps to be cased ; and in vessels where a fore-castle bulk-head does not meet the ceiling at the bottom, a pump-well must be built, forward, to receive the suction pipe of steam pump. Vessels over four hundred tons must have a second pumpwell, aft ; and all pumpwells to be, at least, twenty-two inches square inside, and fitted with a slide at the bottom that may be readily opened from the deck.

Pump holes not to be cut through single keelsons, unless of extra siding, equal to the diameter of hole.

## RUDDER CASE.

Section 38. Any sufficient and reliable method of making the rudder case perfectly water-tight may be adopted. Copper casings should have ample room around the rudder stock, to avoid chafing. A good wooden casing may be built of seasoned pine staves, three inches thick, grooved, and tongued with white lead, extending from the deck to outside of counter-plank, and caulked at each end.

## RUDDER.

Section 39. The rudder stock to be made of strong tough timber. The diameter in inches to be equal to the average width of the blade, clear of the stock, and its immersed depth in feet, added together. For Propellers, rudder stocks should have twenty per cent. more cross section and strength than for sailing vessels.

The breadth of rudders, from the centre of stock, if concaved, may be in the proportion of one foot to forty-five feet of the sum of the vessel's length and breadth.

All vessels above one hundred tons, to be fitted with approved steering apparatus.

Vessels above two hundred tons, to have the pintle in the heel inserted through a plate, the diameter of the heel-band inside, and secured by a pin in the stock; or have the pintle forged to straps let into the heel of the stock, and securely bolted thereto, as generally done for Propellers.

Vessels above three hundred and fifty tons, to have rudder supporters at the deck.

#### WINDLASS.

Section 40. Every vessel above one hundred tons to be provided with a geared windlass or capstan of sufficient power to weigh the anchor. The size to be, in proportion to the best bower cable, according to the tonnage of the vessel—(the number designating the sizes of windlasses manufactured by Coffin & Woodward, of Boston, and those made by the American Windlass Co., of Providence, being of approved standard.)\*

The length of wooden windlasses must not be greater than five and a half times the largest diameter of the body; which, with iron whelps, must not be less than two inches with iron, and two and a half inches with wooden necks, for every eighth of an inch of the diameter of the best bower cable.

Windlasses for cables inch and a quarter and upwards, to have iron spindles the whole length, in size two and a half times the diameter of the cable.

#### FASTENING.

Section 41. The fastening of all vessels of the first class to be done *by the day*, by the builder.

American bar iron to be the standard for all fastenings. The sizes for all bolts and spikes are given for use in oak materials. In pine, or other soft timber, inferior to oak in holding quality, the diameter of iron bolts, spikes, and treenails to be augmented by one-twelfth, at the least. Yellow metal or copper bolts, or composition spikes, to be increased to one-twelfth the diameter for bars, and one-eighth for soft wood fastening. Where the external fastening is exclusively of treenails, and copper or yellow metal bolts and dumps,

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\* See appendix for list of sizes according to tonnage.

one-third only of the latter being used, their lengths to be not less than two inches greater than twice the thickness of the plank through which they pass. Short iron bolts used in lieu of spikes for middle fastenings of bottom planks, to be of the above length for dumps. All treenails not passing into the frame a distance twice the thickness of the plank, to be fox-wedged.

As nearly all the strength of scarphs comes from fastening, they should be very securely bolted. Ordinarily, for a compressive stress, scarph bolts may answer twelve inches apart; but if the principal stress is crosswise or tensile, eight, and even six inches near will not supply the deficient strength in the lap, though it may furnish a workmanlike degree of security.

All the bolts of iron knees or straps, to be headed and driven so they shall fill the holes as well as the countersink, and all to be clinched. All clinches to be on the same metal as the bolts.

All bolts whose sizes are not specified, to be in diameter and number proportionate to the parts which they connect. Chain, ring, and eyebolts, which stand out from the surface, should have doubled dimensions.

The length of spikes to be one inch more than twice the thickness of the planks they fasten, up to a thickness of four inches; above that thickness of plank, the spike to be driven five inches into the frame.

All treenails to be of the best quality of the wood of which they are made; at least equal in strength and hardness to the materials which they fasten; clear of knots and sapwood, straight grained, circular or eight-squared, having been split, and either engine-turned, compressed, or planed; and tightly driven, single or double drift, according to length. This must be carefully caulked triangularly outside where of hard wood, and wedged across inside. (Outside wedging may answer for treenails of soft wood.)

TABLE.

Frames spaced 24 inches and less. Minimum sizes of Bolts in Oak Timber.  
Drift, one-sixteenth of an inch.

Tonnage, ( $L \times B \times D \div 0.7$ ), 100, 175, 275, 400, 550, 700, 900, 1200, 1500.

	100	175	275	400	550	700	900	1200	1500
Scarphs of keel and keelson, pointers, hooks & arches, Deadwood, stem, stern, pocket-pieces, keelson and riders.....	$\frac{3}{4}$	$\frac{7}{8}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	1
Transom, throats of hooks and hanging knees.....	$\frac{3}{4}$	$\frac{7}{8}$	$\frac{1}{2}$	$\frac{1}{2}$	1	1	1	$1\frac{1}{4}$	$1\frac{1}{2}$
Clamps, knees, beams, water-way, shelf, stringer and floors.....	$\frac{3}{4}$	$\frac{7}{8}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	1	1

Vessels of live oak frame to be treenailed or bolt fastened.

#### CAULKING.

Section 42. Good caulking seams will be close inside, and open one-twentieth of the thickness of the plank outside. Seams must not be reamed or caulked until all the fastening is driven. All seams needing to be reamed, to be opened with irons of a shape to fit, driven not less than two-thirds the depth to the bottom.

The oakum to be the best quality of tarred hemp, for all outside work; and the threads sufficient in number to fill the seams to the bottom. All butts to have a parallel opening to the timber, be caulked before the seams, and horsed solid along with them. The first three threads, and each double thread driven thereafter, to be horsed. Where to be payed with tallow, (which must be clean and of pure quality), the oakum to be deeply made in and hardened, and the seams filled flush when they have contracted. Caulking to be payd with lead paint, must be hardened and creased smooth; and each seam and butt receive three coats.\*

A test of sufficient caulking is to be made by the surveyor with a beetle and horsing iron, over the timbers, to try the hardness of the threads, and if the seam or butt is well filled. Top-side work must not be finished at the planksheer seam; nor is it best to drive the oakum quite as firmly in the top as in the bottom, at the first caulking.

All the seams of the ceiling, bilge, and clamps, to be caulked to the bottom with good quality of oakum, and at least every fourth thread horsed. (Propellers may use wooden wedges in place of oakum, in the way of the machinery.) This is a requirement in all vessels of the first class, when new and at all times, not only for the purpose of forming a water-tight inner skin to preserve the cargo and save the vessel, in case of going ashore, but to enable the hull to resist the sheering stress, and the better preserve its shape and original strength.

The centre-box seams to be reamed to the depth of the bolting, filled and horsed solid, beginning, or at least, not ending at the upper seam.

Decks, quickwork, and pine bulwarks may be wholly or practically

\* Properly tempered pine pitch is the best material for paying under water seams caulked with oakum. Its principal drawback is the trouble of scraping. Tallow may be so applied as to make a good job, and outlast pitch, but this is rarely done. As generally put into seams, it is liable to drop out in places, and permits holes to wear through the caulking. When tallow seams are re-caulked, too much grease for good adhesion may find its way along with the new threads. The oily nature of paint makes it objectionable on the same score; it should be used thickly mixed.

caulked with cotton. One light thread of cotton, and two threads of oakum are sufficient for new caulking a three inch deck.

#### VENTILATION.

Section 43. In all vessels an air space must be left above the upper deck shelf, or knees, with openings from the hold, for the ventilation of the spaces between the frames, and the beam ends. To prevent portions of cargo from entering these openings, they may be covered with one or two overlapping strips of work separated from each other; the separation, as well as the lap, to be equal to the opening left over the knee, or the first strip, which may be two inches. The outer strip will be nailed close to the deck; the inner strip may be dispensed with in the case of knees.

Vessels having close-jointed frames, with salt stops between them at the lower edge of the clumps, to have a ventilating passage through the salt space, over an opening in the stop, formed by fitting a strip of wood across a corner of the space.

In the cabins and forecables below deck, and under the floors of the same, one or more air strakes to be left in the ceiling. These may be fitted with fillings or coverings to keep out cargo. Counters and sterns to have, at least, two air strakes, or their equivalent of opening to the timbers.

All vessels shall have air-courses from apron to inner sternpost and transom, at each side, over the frames in the way of the water-courses, of double the channel of the latter. Air-courses may be made by furring the limber planks a suitable distance from the frames.\*

Vessels built for special characterization to be fitted with suction air pumps, for expelling the foul air which settles between the timbers, forward and aft, in the locality of the deadwoods.

#### SALTING.

Section 44. All vessels of the first class must be salted at least, to the following extent:

The stops between the frames, if close-jointed, to be placed at the lower edge of main or upper-deck clamps, and the space between the frames filled with salt to the planksheer. If the frame timbers are choked apart, the chocks are to be partially split out next the ceiling, and the salt admitted to stops between the timbers of each frame, at the height of the light water line, fore and aft, and the spaces filled with salt to the gunwale.

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\*Vessels never should be laid up for winter, or for any time, without making due preparation for their thorough ventilation. The general disregard of this important precaution costs the shipowners of the Lakes hundreds of thousands of dollars annually.

The stern frame, and the cant frames, forward and aft must be salted in the same manner down to the deadwoods and as many more frames as the cants, at each end, must be salted down to the short floor heads, stops being put in at intervals of about three feet each. The spaces over the shelf or knees, and over the centre-box, to be filled with salt, at least one inch deep. Stops must be fitted to keep the salt from choking the air and watercourses, wherever these interfere with continuous filling.

#### EXTRA SALTING.

**Section 45.** All vessels built for special characterization, in addition to the above, must be extra salted in the following manner:

After the ceiling is worked, holes of the size for treenails, to be bored in the middle of the strakes, and alternately into each timber of the frame nearly to the planking, and filled with salt, wetted with pickle, and plugged. (Where holes are bored for through treenails, if plugs are inserted to hold the brine, the frame may be salted and pickled thoroughly, before the fastening is all driven).

The ends of beams, arms of knees, hooks, transoms, stern post, apron and stem, the deadwoods and keelsons must be internally salted, in the same way. Holes must also be bored (through the rail) into stanchion heads, the knight-heads, head-ledges of centre box, head of pull-post, rudder stock, bowsprit and masts, and the overhead arches of steam vessels for the reception of salt and brine, and be plugged for convenient renewal annually. The keelson must be cased fore and aft, where single, with room of one inch on top and sides for the reception of salt. If the keelsons are double, the space between to be ceiled and caulked, and the salt put between them and covered. The centre-box to be incased as the keelson, and salted from top to bottom, stops being nailed zigzag at intervals to support the casing, and keep the salt from settling.

The deck frame to be grooved along the grain, in the middle of the beams, ledges, carlings, and partners, to the depth of an inch, and the grooves filled with salt as the deck is laid. The deck to be bored over the middle of the beams and ledges, in the middle of alternate strakes, salted and brined to the depth of six inches, and the holes tightly plugged one inch deep. The plank-sheer to be bored over the salt spaces for renewing the salt between the timbers. All salt plugs to be removable, that the salting may be renewed annually, until no longer necessary for the preservation of the wood.

Vessels having bent frames in single long timbers, may have them internally salted and pickled from the plank-sheer, if grooves an inch wide, and a half inch deep are cut along the grain, inside and in the

middle, and holes are bored from the grooves into the timber, three feet apart, from top to bottom.

#### BOWSPRITS, MASTS AND SPARS.

Section 46. Bowsprits, Masts and Spars to be made of the woods designated as fit, in Table "A." Vessels of the first class in hull may be masted and sparmed, and have sail in proportion to their stability; vessels deficient in natural stability, or over-sparred, cannot receive the grade to which they would be entitled otherwise, until the disability shall have been removed.\*

Where schooners are masted in proportion to breadth, the following rule to be observed:

For the length of fore and main masts, multiply the square root of the breadth at their respective stations by sixteen.

For White Pine masts, the diameter at the partners to be one inch for each forty-four inches of length; at the heel, twelve-thirteenths of the partners; at the step of hounds, seven-eighths of the partners; at the square of trestle-trees, two-thirds of the partners; at the cap, six-sevenths of the trestle trees.

The fore-stays to set up to the knight-heads, in all sail vessels, of one hundred tons and upwards.

#### CHAIN PLATES.

Section 47. Chain plates shall have length to allow the chain bolts to drive into the third strake, and the preventer bolts into the fourth strake of wales. The holes for chain and preventer bolts to be bored through, and the bolts driven through frames, or filling timbers and ceiling, and secured. Plates pierced for one chain and one preventer bolt, require no backers. Round bar chains must have backers with preventer bolts, and equal strength with plates; and all chain, and bobstay plates to have one-quarter more strength than the shrouds or stays which they secure.

TABLE OF SIZES—AMERICAN MANUFACTURE.

Chain and Bobstay Bolts. INCHES.	Chain and Bobstay Plates. INCHES.	Wire Rigging. INCHES.	Bobstay Chains. INCHES.
$\frac{3}{4}$	$2\frac{1}{2} \times \frac{1}{2}$	2	$\frac{1}{2}$
1	$2\frac{3}{4} \times \frac{1}{2}$	2 $\frac{1}{2}$	$\frac{3}{4}$
$1\frac{1}{8}$	$3 \times \frac{5}{16}$	3	$\frac{1}{2}$
$1\frac{1}{4}$	$3\frac{1}{2} \times \frac{5}{16}$	3 $\frac{1}{2}$	$\frac{3}{4}$
$1\frac{1}{2}$	$4 \times \frac{5}{16}$	4	1
$1\frac{3}{4}$	$4 \times \frac{3}{4}$	4 $\frac{1}{2}$	$1\frac{1}{8}$
1 $\frac{7}{8}$	$4\frac{1}{2} \times \frac{3}{4}$	5	1 $\frac{1}{4}$
1 $\frac{1}{2}$	$4\frac{1}{2} \times 4$	5 $\frac{1}{2}$	1 $\frac{3}{4}$

\*Manifestly, vessels that will not bear launching, nor stand upon their bottoms in the port without ballast, are unfit to be classed with those able to carry their canvass light.



The dimensions of plates to be measured as <sup>the</sup> ~~the~~ holes. Chain and holstay plates to have at least two bolts in hard wood, but three in soft, of the size given above.

#### SOLID BOTTOMS.

Section 48. Steam vessels, drawing ten feet of water and upwards; vessels towed as barges, drawing eleven feet and upwards; and sailing vessels, drawing thirteen feet and upwards, of the first class, to have solid bottoms, either framed or filled, to the inner lower turn of the bilges. The fillings may be of hard or soft wood; and if more than six inches thick, at least half in the midship body must be of whole length over the keel. Fillings over three inches thick to be fastened to the frames; those crossing the keel, if five inches thick, to receive a bolt through the keelson; and all to be seamed and well caulked or wedged in the joints outside and inside, at least under all keelsons and at the ends, for a space of two feet in each place.

Steam vessels having solid bottoms thoroughly caulked may dispense with ceiling on the flat of floor, and the riders on main keelson; and, in lieu thereof, have at least four floor keelsons, on each side, spaced at intervals outside the assistant-keelson. In such cases, the main and assistant-keelsons together, to have half the cross section area that would otherwise be given to a main keelson with riders. Each floor keelson to have a cross section area of one-fourth the main and assistant-keelsons together. The scarphs in adjacent keelsons, not to be nearer each other, than one-third the length of a piece, nor over a butt of the bottom planking; and to be double bolted through the timbers, and single through the fillings, if five inches thick, and clinched.

The cross-planking of floor to be caulked water-tight, as inner skin.

Sailing vessels may adopt floor keelsons and have floors cross-planked, in lieu of ceiling, but the rider keelsons amidship must be retained.

#### ROLLING RODS.

Section 50. All steam vessels with arches, or promenade decks erected upon stanchions above the main deck, to be fitted with rolling-rods, sufficient in number and size, to hold the sway of the upper decks and arches.

#### GANGWAYS.

Section 51. Steam vessels with main deck gangways must have double shutters, one to be shipped outside, the other inside, and both well secured by stout oak bars.

## SHEER.

Section 52. The maximum sheer for the main or upper decks of all vessels, to be four feet forward, and two feet aft, with the lowest point at least one-tenth the length abaft of midship.

## PORTS AND HATCHES.

Section 54. Vessels having timber ports, in the bow or stern, below the main deck, built and secured in the very best manner, may be classed up to A 2.

Vessels with lumber ports in the side, where planned or put in at the time of building, the butts of the planking and ceiling having been properly shifted for the equalization of strength, the clumps not cut, may be classed up to A 2; but up to B 1 only, if the ports are located amidst an assemblage of butts; and up to B 2 only, if the clumps are cut.

All hatches over six feet in length or breadth, to have removable beams for middle supports to the covers; and hatches over eight feet long not allowed in A 1 vessels.

## RATING OF TIMBER.

Section 56. The relative values of the different kinds of timber, of good quality, for use in the various parts of vessels, are given in Table "A," in years.

The timber of all the woods to be cut and made in the season of repose; which is in autumn or winter, after the year's growth is completed, the leaves withered or fallen; while the roots are inactive; and before the sap begins again to circulate.

Pine, Hackmatack, and similar soft woods, not to be used for outside plank of first class sail vessels built for Lake or River service; and on the flat of bottom only in vessels with solid bottoms, and then of half more thickness. Oak to be preferred for all bottoms. The sapwood of Live, White or Burr Oak, Locust and Red Cedar, need not be removed from timber of the frame.

Timber materials should not be condemned for trifling defects, which may be removed or tolerated without detriment to the vessel's strength and durability. Graying pieces should be avoided in unsightly situations; and in the bottom should never exceed two in any one plank, cut through to the frames where in contact with a seam.

## EQUIPMENT.

Section 57. Sail vessels to be rigged with hemp or wire rigging of approved manufacture, of the circumferences given in Table "B," in proportion to the Register Tonnage.

TABLE A. Showing the relative value, in *logs*, according to properties, of timber of good quality used in the various parts of vessels.

WOODS, THE GROWTH OF THE UNITED STATES.	PRINCIPAL TIMBERS.			FRAMING.			BEAMS, KNEES, &c.			OUTSIDE PLANKING, &c.			INSIDE PLANKING, &c.			BOX & BUILDING.			Masts & STAYS.		
	Red & Pocket-pieces.	Applen, knighthead, inner.	Post, transom.	Keelsons & Beams.	Floors and Bulkheads, below.	Light-line.	Enticock's Tops and Stanchions.	Beams, (various) and Lodges.	Bent (brown) knees, and Hooks.	Bottom, below.	Top, above.	Plank-sheets, Light-line.	Sprinkling, Water-way, &c.	Bridge Strakes, (Chips, Shek's, and Strakes).	Rolling on flat under chip.	Center-board, Under-board, Bitter and Bitter.	Trunnion, (round).	Deck Plank.	Masts.	Stays.	
White and Burr oak, of lat. 32 to 40	14	14	14	14	14	14	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
White oak, of lat. 40 to 43	14	14	14	14	14	14	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Live oak	14	14	14	14	14	14	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Black & Yellow Oak, of lat. 36 to 42	11	11	11	11	11	11	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Yellow, of lat. 36 to 42	11	11	11	11	11	11	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Red, of lat. 36 to 42	11	11	11	11	11	11	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Red, of lat. 42 to 45	11	11	11	11	11	11	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Red and Yellow Mulberry	10	9	9	9	9	9	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Malocany and Black Cherry	10	9	9	9	9	9	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
White Chestnut	9	9	9	9	9	9	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
Rock and Red Elm	11	6	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Southern Red Elm	12	6	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
White Hickory	12	6	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
White and Blue Ash	12	6	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Rock & Black Maple, Water Locust	12	6	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Red Beech, Honey Locust	10	5	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
White Beech & d Red Maple	10	4	3	3	3	3	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
Black, Red and Yellow Birch	9	3	3	3	3	3	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
Black, or Sweet Gum	14	8	6	6	6	6	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Red Bay, or Southern Laurel	10	7	6	6	6	6	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
California Laurel	10	7	6	6	6	6	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Kentucky, collective	10	7	6	6	6	6	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Black and White Walnut	10	7	6	6	6	6	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Bald Cypress	5	4	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
Rocky Mountain, Pitch Pine	5	4	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
Yellow Pine, south of lat. 35	7	7	7	7	7	7	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Yellow, or Red Pine, (Northern)	4	4	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
White Pine	4	4	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
White and Red Spruce	4	4	4	4	4	4	8	8	8	8	10	10	8	10	10	10	10	8	8	8	
White Cedar and Yellow Poplar	5	5	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Red Cedar, (Atlantic States)	5	5	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Yellow Cedar, (Oregon)	5	5	5	5	5	5	10	10	10	10	12	12	10	12	12	12	12	10	10	10	
Yellow Fir, (Puget Sound)	10	9	10	10	10	10	12	12	12	12	14	14	12	14	14	14	14	10	10	10	
White Cedar	10	9	10	10	10	10	12	12	12	12	14	14	12	14	14	14	14	10	10	10	

This Timber needs to be protected against the ravages of the Wood-Boring Beetle.

For Small Vessels.

All vessels navigating the Lakes to be provided with anchors, chain cables, and manilla hawsers of approved quality, as specified in Table "C."

The length of large chain for all vessels of 350 tons and upwards, to be 90 fathoms. For all other vessels, and for the small chain 75 fathoms.

The length of hawsers for vessels less than 350 tons, to be 60 fathoms; and for all over this tonnage, 120 fathoms.

Steam vessels above 200 tons, employed wholly on the rivers may have chains four-sixteenths less in diameter than for sail vessels; and anchors in proportion.

All vessels to have their machinery, masts, spars, rigging, sails, compasses, steering apparatus, centre-board, windlass, pumps, catheads, davits, scuppers, and hawsepipes in sea-going order and good working condition; and a boat or boats sufficient to carry the crew, and competent for the transportation of the small anchor, and all vessels to carry a full crew.

### DECKS AND PIPES.

**Section 58.** In all vessels to be classed above B 1, the main deck frame shall be continued right aft, and the decks shall be laid from apron to stern, without breaking off or sinking at the cabin, except in those of less than nine feet draft of water (exclusive of outstanding keel), or under the proportion of twelve times the depth of hold for the length between apron and stern timber.

Hawse-pipes, scuppers, closet plumbing and pipes of every description having outlet through the vessel, to be passed through chocks of wood placed for the purpose between the frames.

### IRON VESSELS.

Section 59. Steam vessels built of iron, not less substantially than required by the Rules of the New York Record for the highest class, but in addition, having their bottoms built as solidly and defensively as those of wooden steam vessels, (see Sec. 48), being timber-filled between the frames of the floor, the filling in whole length well fastened to the floor plates; the bottom, outside, planked with wood to the top of the bilge, the planks of three-fourths the thickness required for wooden vessels, by Sec. 29, single fastened and properly caulked; with water-tight ceiling to the top of the bilge, and three or more compartment bulkheads well caulked, shall be eligible to the grades of the first class for Lake navigation.

Iron vessels inferior to the above standard of strength and preparation for taking the bottom, to be assigned a grade in the second or third classes only.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Black and Bay Shells	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
White Cedar and Yellow Poplar	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Red Cedar (Atlantic States)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Yellow Cedar, (Oregon)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Yellow Fir, (Puget Sound)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77																							

TABLE B.

CIRCUMFERENCE OF RIGGING, STAYS, AND BACKSTAYS, IN INCHES.

REGISTER TONNAGE.		MAIN AND FORECAST.																			
		100	200	300	400	500	600	700	800	900	1000	1100	1200	1300	1400	1500	1600	1700	1800	1900	2000
Lower Rigging and Stays, and Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Stays and Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Lower Rigging and Stays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays and Stays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Topmast Backstays.	.....	10																			

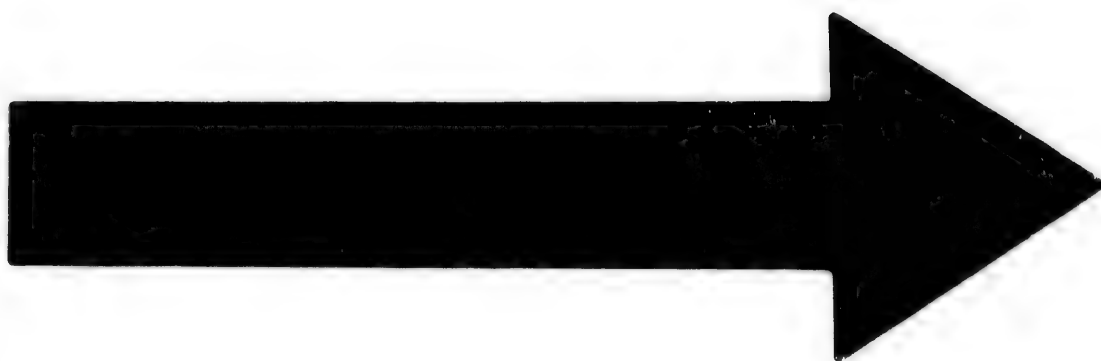
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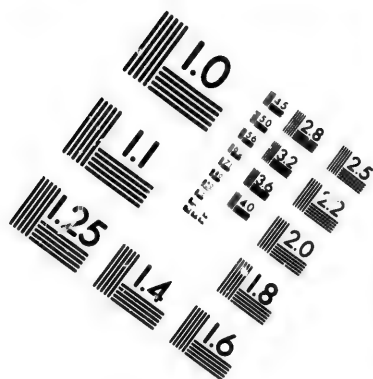
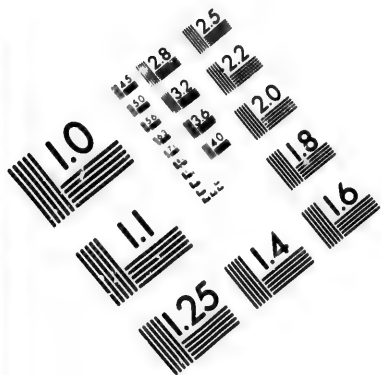
### MINIMUM SIZES OF CHAINS, ANCHORS, AND HAWSERS FOR SAIL VESSELS.

[illegible]

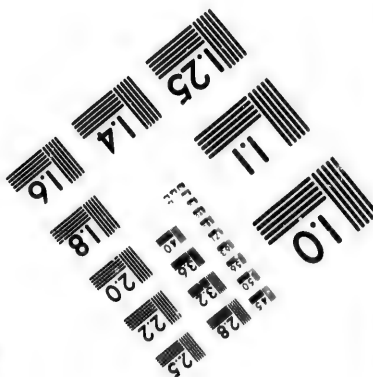
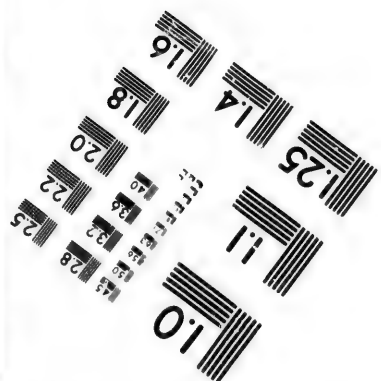
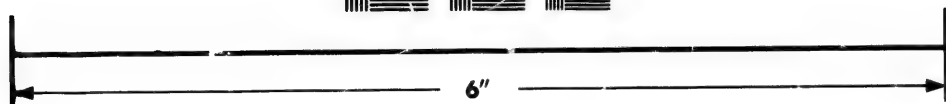
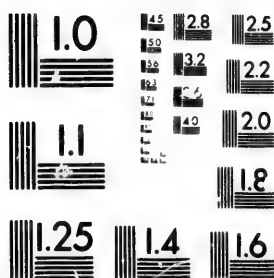
## A.

ABANDON	—Goods for freight; merchant cannot	54
"	When vessel-owner has a right to	149
"	Cargo, freighter not entitled to because damaged	31
ABANDONMENT	When freight is due to insurers in case of	54
"	Dissolves contract to pay	44
"	Freight	134
"	Acceptance of "see" Insurance	154
ACCIDENTS	To passengers, when masters and owners not liable	84
"	What is an inevitable	115, 119
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